



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

August 31, 2010

Mr. Edward M. Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

Re: 101115 - C
Institute for Urban Family Health
(New York County)
Acquire operations of North General
Diagnostic and Treatment Center and
Ralph Lauren Center for Cancer Care and
Prevention; Revised:6/23/10 - Acquire
operations of three (3) North General
Diagnostic and Treatment Center
ambulatory clinics - Delete Ralph Lauren
Center acquisition - "Safety Net"

Dear Mr. Fried:

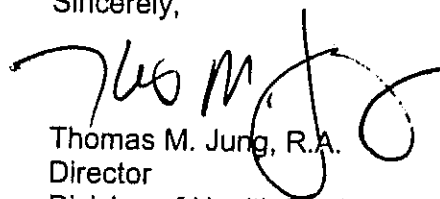
The Department of Health has reviewed the documentation addressing the contingencies related to the proposed approval of the above project. As of this date, all contingencies on this project have been satisfied.

In order to ensure reimbursement and/or receive a revised operating certificate, you must contact the Regional Office. If appropriate, the Regional Office will schedule an on-site visit within sixty (60) days of receiving your request. To ensure that a pre-opening inspection is conducted in a timely manner, please contact the following Regional Office and provide them with a copy of this letter:

Metropolitan Area Regional Office
New York State Department of Health
90 Church Street
14th Floor
New York, New York 10007
(212) 417-5550

If you have any questions regarding this letter, please contact the Bureau of Project Management at 518-402-0911.

Sincerely,



Thomas M. Jung, R.A.
Director
Division of Health Facility Planning

Cashline

13665

\$ 1,061 ⁰⁰



August 23, 2010

Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
433 River Street, 6th Floor
Troy, New York 12180-2299

RECEIVED

AUG 24 2010

Bureau of
Project Management

Re: 101115 – C
Institute for Family Health
(New York County)
Acquire the operations of North General Diagnostic
and Treatment Center, Inc.
"Safety Net"
(\$426,627)

Dear Mr. Cook

Herewith is our response to the letter issued on July 26, 2010 regarding our request for certificate of need approval to acquire the operations of North General Diagnostic and Treatment Center, Inc. following our receipt of an emergency approval letter on July 1, 2010.

Three contingencies were cited on July 26 plus a listing of approved services. We are responding to all four elements of that letter.

Contingency #1: Submission of an executed building lease acceptable to the Department of Health. There is space in two leased buildings, and hence, two leases. Please see attachment #1 for 1879 Madison Avenue and attachment #2 for 1824 Madison Avenue.

Contingency #2: Submission of the executed HEAL NY Discretionary grant contract. [BFA] Please see attachment #3

16 East 16th St New York, NY 10003 212.633.0800 fax: 212.691.4610

279 Main St. New Paltz, NY 12561 845.255.3766 fax: 845.255.3753

A nonprofit corporation

73402

Contingency #3: Submission of a check for the amount of \$1,061 payable to the New York State Department of Health. Pursuant to Chapter 58 of the Laws of 2009, applications submitted for administrative review shall pay a fee of thirty hundredths of one percent of the total capital value of the project, exclusive of the CON application fee, if any. [PMU] Please see attachment #4. (Original check is attached to the original of this letter.)

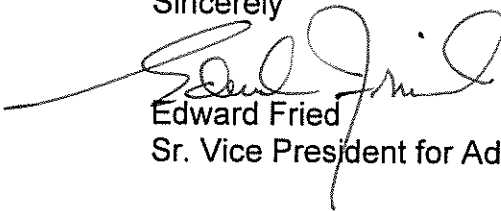
Approved Services: Please clarify the difference between the approval to provide services and those services which will appear on our operating certificate. Attachment #5 shows the list of services approved by the DOH in our emergency approval letter of July 1, the list of services we requested in our June 22 Certificate of Need application and the listing on the July 26 DOH letter.

Beyond those services listed on the July 26 letter, we believe we have received permission to provide the following services.:

- Cardiology
- Dermatology
- ENT
- Gastroenterology
- Gynecology (add to 1879 Madison)
- Hepatology
- HIV Clinic
- Nephrology
- Neurology
- Orthopedics
- Urology
- Hematology (in CON 17C-2)
- Primary Care at SBHC
- Pediatrics at SBHC
- Mental Health at SBHC

Please clarify services which we are permitted to provide.

Sincerely



Edward Fried
Sr. Vice President for Administration

16 East 16th St New York, NY 10003 212.633.0800 fax: 212.691.4610
 279 Main St. New Paltz, NY 12561 845.255.3766 fax: 845.255.3753

ATTACHMENT #1

**NORTH GENERAL HOSPITAL,
Landlord**

TO

**THE INSTITUTE FOR FAMILY HEALTH
Tenant**

LEASE

**Premises: Portion of North General Hospital, as more particularly described herein,
located at 1879 Madison Avenue, New York, New York**

as of July 1, 2010

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EXHIBITS:

EXHIBIT A – LEGAL DESCRIPTION OF LAND

EXHIBIT B – DEMISED PREMISES

This Index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision thereof.

LEASE

LEASE (this "Lease"), dated as of July 1, 2010 (the "Effective Date"), between North General Hospital, a New York not-for-profit corporation, having an office address at 1879 Madison Avenue, New York, New York 10035, Attn: Mr. John Maher (hereinafter referred to as "Landlord") and The Institute for Family Health, a New York not-for-profit corporation, having an office at 16 East 16th Street, New York, New York 10003 (hereinafter referred to as "Tenant").

WITNESSETH:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant, intending to be legally bound, hereby agree as follows:

ARTICLE 1

Demise, Premises, Term, Rents

1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the premises hereinafter described in the building located at 1879 Madison Avenue, commonly known as North General Hospital, in the Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "**Building**"), on the parcel of land more particularly described in Exhibit A attached hereto (hereinafter referred to as the "**Land**"), together with the non-exclusive right to use the common areas of the Building, for the Term (as herein defined) hereinafter stated, for the Rents (as defined herein) hereinafter reserved and upon and subject to the conditions (including limitations, restrictions and reservations) and covenants hereinafter provided. Each party hereby expressly covenants and agrees to observe and perform all of the conditions and covenants herein contained on its part to be observed and performed.

1.02 The premises (the "**Demised Premises**") hereby leased to Tenant consist of approximately 19,212 rentable square feet on the first floor, as more particularly shown in Exhibit B attached hereto. The Demised Premises includes all fixtures and equipment which at the commencement, or during the Term, of this Lease are thereto attached (except items not deemed to be included therein and removable by Tenant as provided in Article 13).

1.03 The term of this Lease (hereinafter referred to as the "**Term**"), shall commence on the Effective Date, and shall end at noon on the day prior to the second year anniversary of the Effective Date, subject to extension by the Renewal Term (as hereinafter defined) pursuant to the terms of this Lease (hereinafter referred to as the "**Expiration Date**"), or on such earlier date on which the Term may expire or be cancelled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law or, notwithstanding any contrary provision contained in this Lease, the date that Tenant takes occupancy of the Annex (as defined herein), but without consideration of Tenant's occupancy of a portion of the Annex pursuant to a separate lease from Landlord dated as of the date hereof. Notwithstanding anything to the contrary contained in this Lease, but at no expense to Landlord, Landlord shall use commercially reasonable efforts to have the Demised Premises vacated in whole or to the greatest extent practicable prior to the commencement of the Term for the purpose of allowing Tenant to perform Tenant's Work (as defined herein) provided that Tenant delivers to Landlord

certificates evidencing insurance in types and amounts reasonably acceptable to Landlord and further provided that any such access to the Demised Premises and the Building shall be subject to reasonable rules and requirements of Landlord which may be revised by Landlord in its reasonable discretion from time to time, provided that Landlord shall have promptly given Tenant notice of such revisions.

1.04 The "Rent or Rents" reserved under this Lease, for the Term thereof, shall be and consist of:

(a) Tenant will pay annual rent "Fixed Rent" for each Lease Year (as hereinafter defined) commencing on the Effective Date, as follows, including any Fixed Rent for the Renewal Term (as herein defined):

- (i) Lease Year 1 \$576,360.00 (\$48,030.00 per month)
- (ii) Lease Year 2: \$593,650.80 (\$49,470.90 per month)
- (iii) Lease Year 3 (option year): \$611,460.32 (\$50,955.03 per month)
- (iv) Lease Year 4 (option year): \$629,804.13 (\$52,483.68 per month)

which shall be payable without offset or abatement, except as expressly set forth in this Lease, in equal monthly installments in advance on the first day of each and every calendar month during the Term of this Lease; and

(b) "Additional Rent" consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Fixed Rent);

all to be paid to the Dormitory Authority of the State of New York (the "Authority") at its offices located at 515 Broadway, Albany, New York 12207-2964, in respect of the obligations owed to the Authority in connection with (i) those certain Secured Hospital Revenue Refunding Bonds (North General Hospital), Series 2003 issued in respect of obligations of Landlord (ii) that certain Loan Agreement dated as of January 3, 2003 between the Authority and Landlord, (iii) that certain Amended and Restated Reimbursement Agreement dated July 23, 2004 between the Authority and Landlord, in each case as amended, restated, supplemented or otherwise modified to date, any other prepetition loan agreements between the Authority and the Landlord; and (iv) that certain Senior Secured Priming and Superpriority Debtor-in-Possession Credit Agreement dated on or about the date of this Lease, among Landlord, North General Diagnostic and Treatment Center, North General Services Corporation and the Authority, or such other place, or to such agent and at such place, as the Authority may designate by written notice to Tenant, in lawful money of the United States of America.

1.05 Tenant shall pay the Fixed Rent and Additional Rent herein reserved promptly as and when the same shall become due and payable, without demand therefor and

without any abatement, deduction or setoff, except as expressly set forth in this Lease, subject to any grace period provided hereunder.

1.06 If the date on which Fixed Rent is first due hereunder occurs on a day other than the first day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month and paid on such first due date. Tenant shall pay the first month Fixed Rent on the Effective Date. If the Term shall end on a date other than the last day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month.

1.07 Provided that this Lease is in full force and effect on the date Tenant delivers the Renewal Notice (as hereinafter defined) or at any time thereafter through the commencement date of the Renewal Term, Tenant shall have one (1) two (2) year renewal option ("**Renewal Option**") to renew this Lease for one (1) two (2) year term ("**Renewal Term**") at the Rents and upon the other terms set forth herein by delivering notice to Landlord ("**Renewal Notice**") exercising the Renewal Option no later than ninety (90) days prior to the expiration of the Term. In the event that Tenant shall fail to deliver the Renewal Notice in accordance with the provisions hereof, Tenant shall be deemed to have forever waived its right to exercise the Renewal Option and Tenant shall have no further right to renew or extend the Term of this Lease. Time shall be of the essence with respect to Tenant's exercise of the Renewal Option and delivery of the Renewal Notice. Tenant shall have no right to renew or extend this Lease beyond the expiration of the Renewal Term.

1.08 Notwithstanding anything to the contrary contained in this Lease, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect upon the earlier to occur of (a) the expiration or termination of this Lease by Landlord pursuant to the terms of this Lease or pursuant to law, (b) the termination or surrender by Tenant of Tenant's right to possession of the Demised Premises pursuant to the terms of this Lease, and (c) the failure of Tenant to timely and properly exercise the Renewal Option. Notwithstanding anything to the contrary contained in this Lease, (i) Tenant shall diligently pursue and use commercially reasonable efforts to obtain a grant from HEAL grant funding and/or Federal grant funding (collectively, the "**Grant**") in an amount sufficient, coupled with other available funds, for the rehabilitation of the annex building located at 1824 Madison Avenue, New York, New York ("**Annex**") and such commercially reasonable efforts shall commence within fifteen days of the beginning of the Term, (ii) if Tenant fails to comply with the terms contained in this sentence, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect, and (iii) upon the receipt of any portion of the Grant proceeds, Tenant will promptly apply such proceeds to costs in connection with the rehabilitation of the Annex as permitted by and in accordance with the terms of the Grant.

1.09 This Lease and the obligations of both parties hereunder, are conditioned upon the written consent (the "**Consent**") of the Authority and the State Department of Health ("**DOH**"). This Lease and any modifications or amendments hereof shall not take effect and be binding upon Landlord and Tenant until the Authority and DOH provides the Consent. Landlord and Tenant shall submit all documents reasonably required by the Authority and DOH in connection with the request for Consent and shall otherwise use their best efforts to cause the Authority and DOH to provide the Consent. In the event that Landlord receives written notice

from the Authority or DOH that the Consent will not be granted, (a) Landlord and Tenant shall cooperate in good faith to appeal the Authority or DOH's failure to provide Consent or otherwise use their best efforts to cause the Authority or DOH to provide the Consent or (b) if Landlord and Tenant mutually agree in writing to not further pursue the Consent, this Lease shall automatically terminate and shall be null, void and of no further force or effect as of a date specified in such writing.

1.10 As used in this Lease, the Term "**Lease Year**" shall mean each successive period of twelve (12) consecutive months during the Term of this Lease, with the first Lease Year (including any partial month) commencing on the Effective Date.

1.11 Tenant acknowledges that it has no rights to any development rights, "air rights" or comparable rights appurtenant to the Land and Building, and consents, without further consideration, to any utilization or transfer of such rights by Landlord and agrees to promptly execute and deliver any instruments which may be reasonably requested by Landlord, including instruments merging zoning lots, evidencing such acknowledgment and consent. The provisions of this Section 1.11 shall be deemed to be and shall be construed as an express waiver by Tenant of any interest Tenant may have as a "party in interest" (as such quoted term is defined in Section 12-10 of the Zoning Resolution of the City of New York) in the Land and Building. The terms of this Section shall be self operative and shall serve as a waiver of any "party in interest" rights Tenant pursuant to the terms of the Zoning Resolution of the City of New York.

ARTICLE 2

Use

2.01 Tenant shall use and occupy the Demised Premises for ambulatory services such as, but not limited to, physician's services (including diagnosis, therapy, and consultation, including if the physician examines the patient in person or is able to visualize some aspect of the patient's condition without the interposition of a third person's judgment), services and supplies incident to a physician's services, services of nurse practitioners, physician assistants (including certified nurse midwives), services and supplies incident to the services of nurse practitioners and physician assistants (including services furnished by nurse midwives), visiting nurse services to the homebound, clinical psychologist and clinical social worker services, services of registered dietitians or nutritional professionals for diabetes training services and medical nutrition therapy, as well as drugs which are otherwise covered but are furnished by, and incident to, services of physicians and non physician practitioners of Tenant and related administrative purposes. Notwithstanding anything to the contrary contained herein, in no event shall the Demised Premises or the Annex be used in violation of that certain Tax Regulatory Agreement that will be entered into subsequent to the execution of this Lease (the "**Tax Regulatory Agreement**"), between the Authority and New York City Health and Hospitals Corporation.

2.02 If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises, or any part thereof, and if failure to secure such license or permit would in any way materially and adversely affect Landlord, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and make a copy of such license available to Landlord

upon request. Tenant shall at all times comply with the terms and conditions of each such license or permit if failure to so comply would in any way materially and adversely affect Landlord.

2.03 Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the certificate of occupancy for the Demised Premises or for the Building (provided that Landlord represents that the certificate of occupancy does and shall continue to permit use of the Demised Premises for executive and general office use including the use as described in Section 2.01). Tenant shall not use any part of the Demised Premises for reselling to other tenants of the Building any telecommunications services, satellite capacity, electricity or other similar services (except in connection with any sublease permitted hereunder).

2.04 Landlord covenants and agrees that, during the Term, and so long as this Lease is in full force and effect, Landlord will not use or enter into any lease or occupancy agreement of any kind for the Building or any other premises which would establish or permit any tenant or occupant to use the Building or any other Landlord property within fifteen (15) blocks in any direction of the Building in a way that would compete with Tenant's business at the Demised Premises and Tenant may make demand upon Landlord, with respect to a facility established by Landlord, or any tenant or occupant of Landlord's, as applicable, for the cessation of any activity or business in violation of the use restriction set forth herein, and enforce the provisions of this section by an action or proceeding in any court of competent jurisdiction against Landlord or against any such tenant or occupant, as applicable, by injunction or otherwise. The non-compete provisions contained in this section shall not apply to any facility owned or operated by Landlord as of the date of this Lease. Except to the extent due to the intentional misconduct of Landlord, Landlord shall not be liable or obligated to Tenant for any breach of the foregoing restrictions by any Landlord tenant, nor shall any such breach in any way release or relieve Tenant of any of its obligations hereunder. Notwithstanding anything to the contrary contained in this Lease, if the Lease is terminated or if Tenant fails to pay Fixed Rent, subject to any applicable grace or notice and cure period, Landlord shall have no obligation to Tenant with respect to noncompetition as set forth in this Section 2.04. Notwithstanding anything contained in this Lease to the contrary, Tenant acknowledges that Landlord intends to lease a portion of the Building to New York City Health and Hospitals Corporation but use of its demised premises within the Building shall not be for diagnosis and treatment and will not be competitive with Tenant's business in the Demised Premises.

ARTICLE 3

"As Is"; Preparation of the Demised Premises

3.01 Tenant acknowledges that it has had an opportunity to inspect the Demised Premises prior to the Effective Date, and Tenant will accept possession of the Demised Premises on the Effective Date in their then "as is" condition. All installations connecting to any Base Building System and construction work which may be required by Tenant to prepare the Demised Premises for Tenant's initial occupancy (hereinafter referred to as "Tenant's Work") shall be performed at Tenant's sole cost and expense utilizing, as may be necessary in connection with such work, a general contractor, mechanical and electrical engineers, contractors and subcontractors, all as approved by Landlord in writing, such approval not to be unreasonably

withheld, conditioned or delayed. The contractors and subcontractors performing Tenant's Work in the Building shall also be reasonably acceptable to Landlord. Tenant's Work shall be performed by Tenant in accordance with the applicable provisions of this Lease, including, without limitation, Article 12, it being agreed by the parties that Tenant's Work shall be deemed to include Tenant's Changes (as defined in Article 12). All Tenant's Work shall be subject to Landlord approval, which shall not be unreasonably withheld, conditioned or delayed and shall be subject to the terms of Section 12.01(e). Detailed plans for all Tenant's Work, including the names and any information reasonably requested by Landlord relating to the proposed contractors, subcontractors and engineers, shall be submitted to Landlord and Tenant shall not commence any such work prior to its receipt of Landlord's consent.

ARTICLE 4 Adjustments of Rent

4.01 For purposes of this Lease:

A. The term "**Escalation Year**" shall mean each calendar year which shall include any part of the Term following the calendar year 2010.

B. The term "**Base Operating Factor**" shall mean Operating Expenses (defined hereinafter) for the 2010 calendar year; provided that, for purposes of determining the Base Operating Factor, Operating Expenses that vary with occupancy of the Building and are attributable to any part of the 2010 calendar year in which less than one hundred percent (100%) of the rentable area of the Building is occupied shall be adjusted to the amount that such Operating Expenses would have been if one hundred percent (100%) of the rentable area of the Building had been occupied for the entire 2010 calendar year.

C. The term "**Tenant's Proportionate Share - Expenses**" shall be deemed to mean 9.6%.

D. The term "**Base Rate**" shall mean the rate of interest publicly announced from time to time by Citibank, N.A., or its successor, as its "base rate" (or such other term as may be used by Citibank, N.A., from time to time, for the rate presently referred to as its "base rate").

E. The term "**Amortized Expenses**" shall mean the annual amortization (on a straight line basis over a depreciable life in accordance with generally accepted accounting principles consistently applied) of expenditures incurred by Landlord after the Commencement Date for any equipment, device or capital improvement which is required by law or insurance requirements or which is designed as a labor saving measure or designed to effect other economies or efficiencies in the operation or maintenance of the Property or the Building equipment, in each case, only to the extent of the savings created by such expenditures.

F. The term "**Operating Expenses**" shall mean Amortized Expenses and all other costs and expenses (and taxes thereon, if any) paid or incurred by Landlord or on behalf of Landlord with respect to the operation, cleaning, repair, safety, management, heating, ventilating and air conditioning of the Building, including the Building condenser water system (the "**Base Building System**"), security and maintenance of the Property, Building equipment, sidewalks, curbs, plazas and other areas adjacent to the Building, sewer and water rents, rates and charges,

and all insurance carried by Landlord on the Demised Premises, including, but not limited to, all insurance required to be maintained under any mortgage and all insurance against loss or liability with respect to the payments or revenues; provided, however, that Operating Expenses shall exclude or have deducted from them, as the case may be:

1. executives' salaries;
2. expenditures for capital improvements or capital equipment, other than those properly included in Amortized Expenses;
3. amounts received by Landlord through insurance proceeds, condemnation awards, warranties and service contracts, or otherwise, to the extent they are compensation for sums otherwise included in Operating Expenses hereunder;
4. amounts paid to an affiliate of Landlord which are in excess of the amounts which would have been paid in the absence of such relationship in connection with arms-length transactions with unrelated third-parties;
5. depreciation, except as the same may be properly included in Amortized Expenses;
6. brokerage commissions paid for leasing of space in the Building;
7. Taxes, which for purposes of this Article 4 shall mean the real estate taxes and assessments and special assessments imposed upon the Building and the Land and payable by Landlord, provided that, if at any time during the Term of this Lease the methods of taxation prevailing at the commencement of the Term hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed (i) a tax, assessment, levy, imposition or charge wholly or partially as capital levy or otherwise on the Rents received therefrom, or (ii) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon the Demised Premises and imposed upon Landlord, or (iii) a license fee measured by the Rents payable by Tenant to Landlord including, but not limited to a commercial rent or occupancy tax, then all such taxes, assessments, levies, impositions or charges, or the part thereof so measured or based, shall be deemed to be included within the term Taxes for the purposes hereof;
8. advertising and promotional expenditures;
9. costs incurred in performing work or furnishing services for any tenant (including Tenant), at such tenant's expense, or if at Landlord's expense, to the extent that such work or service is in excess of any work or service that Landlord is obligated to furnish to Tenant at Landlord's expense pursuant to the terms of this lease or is otherwise furnishing to Tenant;
10. refinancing costs, rents payable under any superior lease, mortgage interest and mortgage amortization payments, and any other general overhead and general administrative expenses not related to the operation of the Property;

11. legal fees incurred in connection with disputes with tenants or occupants of the Building and any other legal and auditing fees, other than legal and auditing fees reasonably incurred in connection with the maintenance and operation of the Building or in connection with the preparation of statements required pursuant to additional rent or lease escalation provisions;

12. repair costs resulting from the gross negligence of Landlord or other tenants or occupants of the Building;

13. costs incurred by Landlord that result from Landlord's breach of this Lease or any other lease in the Building or of any law; and

14. Utilities, as defined in Article 15.

G. If during all or part of any Escalation Year, Landlord shall not furnish any particular item(s) of work or service (the cost of which would otherwise constitute an Operating Expense that are customarily furnished to all part of the Building and that vary with the occupancy of the Building) to portions of the Building due to the fact that such portions are not occupied or leased or for any other reason, then, for the purposes of computing Operating Expenses, Landlord may determine that the amount of such item for such period shall be deemed to be increased by an amount equal to the additional costs and expenses, if any, which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such item of work or service to such portion of the Building or to such tenant. Notwithstanding anything to the contrary contained in this Lease, Landlord shall furnish to Tenant reasonably sufficient back-up documentation to support all payments required under this Lease other than those payments for Fixed Rent.

4.02 A. Tenant shall pay as additional rent for each Escalation Year an amount ("**Tenant's Operating Payment**") equal to Tenant's Proportionate Share of the amount by which Operating Expenses for such Escalation Year exceeds the Base Operating Factor.

B. Landlord shall furnish to Tenant, with respect to each Escalation Year, a written statement setting forth Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year. The statement furnished under this Section 4.02 is hereinafter referred to as an "**Expense Statement**". Tenant shall pay to Landlord on the first day of each month during such Escalation Year an amount equal to one twelfth (1/12) of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, such estimate not to exceed one hundred five (105%) percent of Tenant's Operating Payment for the previous Escalation Year. If, however, Landlord shall furnish any such estimate for an Escalation Year subsequent to the commencement thereof, then (i) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Article in respect of the last month of the preceding Escalation Year; (ii) Tenant shall, within thirty (30) days after receipt by Tenant of such estimate, pay to Landlord the amount of any underpayment of Tenant's Operating Payment with respect to the then current Escalation Year calculated to the end of the month in which such estimate is furnished, or, in the event of an overpayment, Landlord shall either pay to Tenant or, at Landlord's election, credit the amount

against subsequent payments under this Article, the amount of Tenant's overpayment; and (iii) Tenant shall pay to Landlord an amount equal to one twelfth (1/12) of Tenant's Operating Payment shown on such estimate on the first day of the month following the month in which such estimate is furnished to Tenant, and monthly thereafter throughout the remainder of such Escalation Year unless and until Landlord shall furnish to Tenant a revised statement of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, which Landlord may do at any time or from time to time and in such case, Tenant's Operating Payment for such Escalation Year shall be adjusted and paid or refunded, as the case may be, substantially in the same manner as provided in the preceding clause.

C. Within sixty (60) days after the end of each Escalation Year Landlord shall furnish to Tenant an Expense Statement for such Escalation Year. Each such year end Expense Statement shall be accompanied by a computation of Operating Expenses for the Building from which Landlord shall make the computation of Operating Expenses hereunder. In making its computation of Operating Expenses, Landlord may rely on Landlord's reasonable estimates and allocations when necessary because actual amounts are not reasonably available to Landlord. If the Expense Statement shall show that the sums paid by Tenant under the Article exceeded Tenant's Operating Payment required to be paid by Tenant for such Escalation Year, Landlord shall either promptly refund to Tenant the amount of such excess or credit the amount of such excess against the next subsequent payments of any amount due from Tenant to Landlord under this Lease; and if the Expense Statement for such Escalation Year shall show that the sums so paid by Tenant were less than Tenant's Operating Payment paid by Tenant for such Escalation Year, Tenant shall pay the amount of such deficiency within thirty (30) days after receipt by Tenant of such year end Expense Statement.

D. If an Escalation Year begins prior to the Commencement Date or ends after the Expiration Date or sooner termination of this lease, Tenant's Operating Payment with respect thereto shall be apportioned in the ratio of the number of days in such Escalation Year occurring within the Term to the total number of days in such Escalation Year.

4.03 Landlord's failure during the lease Term to prepare and deliver any of the tax bills, statements, notice or bills set forth in this Article 4, or Landlord's failure to make a demand, shall not in any way cause Landlord to forfeit or surrender its rights to collect any of the foregoing items of additional rent which may have become due during the Term of this Lease, except to the extent that Tenant may be actually prejudiced by such failure. Tenant's liability for the amounts due under this Article 4 shall survive the expiration of the Term or any other termination of this Lease.

4.04 If all or any part of the fixed rent or additional rent payable hereunder shall at any time become uncollectible, reduced or required to be refunded by virtue of any laws and/or requirements of public authorities (including, without limitation, rent control or stabilization laws) then for the period prescribed thereby Tenant shall pay to Landlord the maximum amounts of fixed rent and additional rent permitted pursuant thereto. Upon the expiration of the applicable period of time during which such amounts shall be uncollectible, reduced or refunded, Tenant shall pay to Landlord as additional rent, within thirty (30) days after written demand, all such uncollected, reduced or refunded amounts that would have been

payable for the period absent such laws and/or requirements of public authorities; provided that the retroactive collection thereof shall then be lawful.

ARTICLE 5
Security Deposit

5.01 Tenant has deposited with Landlord the sum of \$48,030.00 in the form of cash or a letter of credit ("**Letter of Credit**") pursuant to the requirements set forth in Section 5.02 as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. Landlord shall assign such Letter of Credit or cash to the Authority, and the Authority agrees to hold the said Letter of Credit or cash, as the case may be, for the entire Term hereof, subject, however, to the terms of this Article 5 with respect to the application of the proceeds thereof in the event of Tenant's default hereunder. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent and Additional Rent, the Authority may notify the Issuing Bank (as defined herein), if a Letter of Credit is provided and thereupon receive such portion of the proceeds of the said Letter of Credit or cash, as the case may be, and use, apply or retain the whole or any part of such proceeds, as the case may be, to the extent required for the payment of any Rent and Additional Rent or any other sum as to which Tenant is in default or for any sum which the Authority may reasonably expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other entry by Landlord or the Authority. In the event that the Authority applies or retains any portion or all of the proceeds of such Letter of Credit or cash, as the case may be, pursuant to this Section 5.01, then Tenant shall forthwith provide a replacement Letter of Credit complying with the terms of this Article 5 or cash, in either case, equal to the portion of the Security Deposit applied. The Letter of Credit or cash security, less any monies applied pursuant to this Section 5.01, as the case may be, shall be returned to Tenant within fifteen (15) days after Expiration Date, or earlier termination of this Lease unless applied in accordance with the terms of this Lease.

5.02 The Letter of Credit shall be a clean, irrevocable and unconditional Letter of Credit issued by and drawn upon any commercial bank (hereinafter referred to as the "**Issuing Bank**") with offices for banking purposes in the City of New York and which is a member of the New York Clearing House Association and having a net worth of not less than Five Hundred Million and 00/100 (\$500,000,000.00) Dollars, which Letter of Credit shall have an initial term of not less than one year, be in form and content reasonably satisfactory to Landlord, and be for the account of the Authority. The Letter of Credit shall provide that it shall be deemed automatically renewed, without amendment, for consecutive periods of one (1) year each thereafter during the Term of this Lease (with a final expiration date of no earlier than 30 days after the Expiration Date), unless Issuing Bank sends written notice (hereinafter referred to as the "**Non-Renewal Notice**") to the Authority by US Express Mail, return receipt requested, not less than thirty (30) days next preceding the then expiration date of the Letter of Credit that it elects not to have such Letter of Credit renewed. Additionally, the Letter of Credit shall provide that the Authority, within twenty (20) days of its receipt of the Non-Renewal Notice, shall have the right, exercisable by means of (a) a sight draft bearing reference to the Letter of Credit and (b) Landlord's or the Authority's certified statement of default or non-renewal (i) that Tenant has

breached its obligations under this Lease, (ii) stating the amount to be received in accordance with Section 5.01 of this Lease, and (iii) stating that the applicable grace period has expired, to receive the monies represented by the Letter of Credit and hold such proceeds pursuant to the terms of Section 5.01 as a cash security (and Landlord or the Authority, as applicable, shall have no obligation to maintain such cash security in an interest bearing account) pending the replacement of such Letter of Credit or other application of such cash security or proceeds pursuant to the terms of this Lease. The sight draft and certified statement shall each be executed by an authorized representative of the Authority.

5.03 In the event of a sale of the Land and the Building or a leasing of the Building, Landlord shall either (a) return the Letter of Credit or cash, as the case may be, deposited hereunder to Tenant or (b) transfer the Letter of Credit or cash, as the case may be, deposited hereunder to the vendee or lessee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Letter of Credit or cash, as the case may be, provided that in the case of a transfer, such transferee has acknowledged receipt of such Letter of Credit or cash and has assumed Landlord's obligations hereunder. In the event of such a transfer, Tenant agrees to look solely to the new Landlord for the return of said Letter of Credit or cash, as the case may be. It is agreed that the provisions hereof shall apply to every transfer or assignment made of said Letter of Credit or cash, as the case may be, to a new Landlord.

5.04 Tenant covenants that it will not assign or encumber, or attempt to assign or encumber, the Letter of Credit or cash, as the case may be, deposited hereunder as security, or any proceeds thereof, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance.

5.05 In the event that at any time during the Term of this Lease Landlord reasonably determines (a) that the net worth of the Issuing Bank shall be less than the minimum amount specified in Section 5.02, or (b) that circumstances have occurred indicating that the Issuing Bank may be incapable of, unable to, or prohibited from honoring the then existing Letter of Credit (hereinafter referred to as the "Existing L/C") in accordance with the terms thereof, then, upon the happening of either of the foregoing, Landlord may send written notice to Tenant (hereinafter referred to as the "Replacement Notice") requiring Tenant within ten (10) days to replace the Existing L/C with a new letter of credit (hereinafter referred to as the "Replacement L/C") from an Issuing Bank meeting the qualifications described in Section 5.02. Upon receipt of a Replacement L/C meeting the qualifications of Section 5.02, Landlord shall forthwith return the Existing L/C to Tenant. In the event that a Replacement L/C meeting the qualifications of Section 5.02 is not received by Landlord within the time specified, the Existing L/C may be presented for payment by Landlord in accordance with the terms and conditions of Section 5.02 and the proceeds thereof shall be held by Landlord as cash security in accordance with Section 5.01 subject, however, to Tenant's right, at any time thereafter if no default then exists, to replace such cash security with a new letter of credit meeting the qualifications of Section 5.02.

ARTICLE 6
Subordination, Notice to Mortgagees

6.01 This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate in all respects to all mortgages existing on the date of this Lease which affect the Land and/or the Building, whether or not such mortgages shall also cover other lands and/or buildings, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such mortgages and spreaders and consolidations of such mortgages. This Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute and deliver any instrument that Landlord or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination, provided that no such instrument shall increase Tenant's obligations or otherwise materially alter the terms of this Lease. The mortgages to which this Lease is subject and subordinate are hereinafter sometimes referred to as "**Superior Mortgages**" and the mortgagee of a Superior Mortgage or its successor in interest at the time referred to is sometimes hereinafter called a "**Mortgagee**".

6.02 In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (i) until it has given written notice of such act or omission to the Mortgagee of each Superior Mortgage whose name and address shall previously have been furnished to Tenant by notice in writing, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such Mortgagee within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Mortgagee shall have become entitled under such Superior Mortgage, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Mortgagee shall promptly give Tenant written notice of intention to, thereafter promptly commence and continue to remedy such act or omission.

6.03 If the Mortgagee of a Superior Mortgage or any other person or entity shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then, subject to the rights of the Authority under a Superior Mortgage, such party so succeeding to Landlord's rights (herein sometimes referred to as "**Successor Landlord**") shall enter into a written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease, and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment, and provided the Tenant is not in default beyond applicable cure periods, this Lease shall continue in full force and effect as, or as if it were, a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment except that the Successor Landlord shall not:

(a) be liable for any previous act or omission of Landlord or any prior landlord or consequential damages arising therefrom under this Lease;

(b) be subject to any offset, not expressly provided for in this Lease, which shall have theretofore accrued to Tenant against Landlord or any prior landlord;

(c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Fixed Rent not expressly provided for in this Lease or received by or credited to such Successor Landlord, unless such modification or prepayment shall have been expressly approved in writing by the Mortgagee of the Superior Mortgage through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease; or

(d) be liable for refund of all or any part of any security deposit unless such security deposit shall have been actually received by such Successor Landlord.

ARTICLE 7

Quiet Enjoyment

7.01 So long as this Lease is in full force and effect and Tenant is not in default hereunder after notice and expiration of the applicable cure periods, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises subject, nevertheless, to the obligations of this Lease and, as provided in Article 6, to the Superior Leases and the Superior Mortgages.

7.02 Without in any way limiting the foregoing, in the event that Landlord moves all or substantially all of its operations out of the Building during the Term of this Lease, Tenant shall have the right to continue to occupy the Demised Premises under this Lease and on the same basis, including substantially similar costs, as would exist had Landlord not so moved its operations out of the Building. In such instance, Landlord is and shall continue to be legally responsible for the Building and its obligations hereunder, including, without limitation,

(a) the same services that are presently provided including, without limitation, security, heat, hot water, power, and, as required under this Lease, maintenance and repair of the Building and Base Building Systems;

(b) staff at and with respect to the Building as required to maintain the current standard of operations, and not Landlord's business therein, and including an individual familiar with the operations and services in the Building to be the primary contact with the Tenant with respect to such operations and services;

(c) (c) maintaining insurance with respect to the Building in accordance with Article 10.

ARTICLE 8

Assignment and Subletting

8.01 Tenant, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage or encumber this agreement, nor underlet, nor suffer, or permit the Demised Premises or any part thereof to be used or occupied by others, without the prior written consent of Landlord in each

instance which consent may be withheld at Landlord's sole discretion. If this Lease be assigned, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect Rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved, but no assignment, subletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or subletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance. Notwithstanding the foregoing, Tenant may, without Landlord's consent, sublease the Demised Premises or any part(s) thereof or assign this Lease to any corporation, partnership, or other entity controlling, controlled by, or under common control with Tenant; provided, however, (i) Landlord is provided with written notification of any such assignment or sublet, along with assignment or sublet documentation reasonably acceptable to Landlord, (ii) any such assignment or sublet shall not relieve Tenant's responsibilities under the terms of the Lease, and (iii) such assignment or sublet shall not be in violation of the Tax Regulatory Agreement..

ARTICLE 9

Compliance with Laws and Requirements of Public Authorities

9.01 Tenant shall promptly, but in any event within three (3) days of receipt thereof, provide Landlord with a copy of any notice it receives of the violation of any law or requirement of any local, State, or Federal public authority with respect to the Demised Premises, and at Tenant's sole cost and expense shall comply with all laws and requirements of all such public authorities which shall, with respect to the Demised Premises or the use and occupation thereof, impose any violation, order or duty on Landlord or Tenant (including the abatement of any nuisance), arising from (i) Tenant's particular use or manner of use of the Demised Premises including, but not limited to, proper disposal of medical waste (ii) the particular manner of conduct of Tenant's business or operation of its installations, equipment or other property therein, (iii) any cause or condition created by Tenant's Work or Tenant's Changes (as defined herein), other than by Landlord's performance of any work for or on behalf of Tenant, or (iv) breach of any of Tenant's obligations hereunder. However, Tenant shall not be so required to make any structural or other substantial change in the Demised Premises unless the requirement arises from a cause or condition referred to in clause (i), (ii), (iii) or (iv) above. Furthermore, Tenant need not comply with any such law or requirement of public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises, in accordance with Section 9.02.

9.02 Tenant may, at its sole cost and expense (and if necessary, in the name of but without expense to Landlord) contest, by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the Demised Premises, of any law or requirement of public authority, and Landlord shall reasonably cooperate with Tenant in such proceedings, provided that:

(a) Landlord shall not be subject to criminal penalty or to prosecution for a crime nor shall the Demised Premises or any part thereof be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest;

(b) Tenant shall defend, indemnify and hold harmless Landlord against all liability, loss or damage which Landlord shall suffer by reason of such noncompliance or contest, including reasonable attorney's fees and other expenses reasonably incurred by Landlord;

(c) In no event shall such non-compliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage, or if such Superior Lease and/or Superior Mortgage shall permit such non-compliance or contest on condition of the taking of action or furnishing of security by Landlord, such action shall be taken and such security shall be furnished at the sole cost and expense of Tenant; and

(d) Tenant shall keep Landlord advised in writing as to the status of such proceedings.

Without limiting the application thereto of subsection (a) above, Landlord shall be deemed subject to prosecution for a crime within the meaning thereof if Landlord, or any officer of Landlord individually, is charged with a crime of any kind or degree whatever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or such officer (as the case may be) is required to plead or answer thereto.

9.03 Neither Landlord nor Tenant shall install, or permit to be installed, in the Building friable asbestos or any substance containing asbestos or any other substance which is deemed hazardous by any federal, state or local regulations respecting such material.

ARTICLE 10

Insurance

10.01 Tenant shall not violate, or permit the violation of, any condition imposed by the standard fire insurance policy then issued for office buildings in the Borough of Manhattan, City of New York, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Demised Premises which would subject Landlord to any liability or responsibility for personal injury or death or property damage, or which would increase the fire or other casualty insurance rate on the Building or the property therein over the rate which would otherwise then be in effect (unless Tenant pays the resulting premium as provided in Section 10.03) or which would result in insurance companies of good standing refusing to insure the Building or any of such property in amounts reasonably satisfactory to Landlord; provided, however, that in no event shall the mere use of the Demised Premises for customary and ordinary office purposes or for the use of the Demised Premises for the use contemplated herein constitute a breach by Tenant of the provisions of this Section 10.01.

10.02 Tenant covenants to provide to Landlord on or before the Effective Date and to keep in force during the Term hereof with respect to the Demised Premises the following insurance coverage:

(a) For the benefit of Landlord and Tenant commercial general policy of liability insurance protecting Landlord as additional insured and Tenant against any liability whatsoever occasioned by accident on or about the Demised Premises or any appurtenances thereto. Such policy is to be written by good and solvent insurance companies authorized to do business in the state of New York and rated "A" or better by A.M. Best Company, Inc. and the limits of liability thereunder shall not be less than the amount of Ten Million and 00/100 (\$10,000,000.00) Dollars combined single limit coverage on a per occurrence basis, and in the amount of Five Million and 00/100 (\$5,000,000.00) Dollars in respect of property damages, and such amounts and coverages shall be subject to change as Landlord may reasonably request. Such insurance may be carried under a blanket policy covering the Demised Premises and other locations of Tenant, if any or under an umbrella policy; and

(b) All-risk coverage in an amount adequate to cover the cost of replacement of all personal property, fixtures, furnishing and equipment, including Tenant's Work located in the Demised Premises, and shall include 12 months business interruption insurance, payable to Landlord to the extent of Rents due. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

(c) Builder's risk coverage in an amount as reasonably required by Landlord to be delivered to Landlord prior to the commencement of any Tenant's Changes or Tenant Work. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

Prior to the time such insurance is first required to be carried by Tenant and thereafter, at least thirty (30) days prior to the expiration of any such policies, Tenant agrees to deliver to Landlord either duplicate originals of the aforesaid policies or certificates evidencing such insurance, provided said certificate contains an endorsement that such insurance may not be modified or cancelled except upon thirty (30) days' notice to Landlord together with evidence of payment for the policy. Tenant's failure to provide and keep in force the aforementioned insurance shall be regarded as an immediate material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default.

10.03 Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each all-risk policy obtained by it and covering the Building (as to Landlord's policy only), the Demised Premises (or, with respect to Tenant's policy any Tenant's Changes, including Tenant's Work, constructed by Tenant), and the personal property, fixtures and equipment located therein or thereon, pursuant to which the respective insurance companies waive subrogation or permit the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Demised Premises in accordance with the terms of this Lease. If and to the extent that such waiver or permission can be obtained only upon payment of an additional charge then, except as provided in the following two paragraphs, the party benefiting from the

waiver or permission shall pay such charge upon demand, or shall be deemed to have agreed that the party obtaining the insurance coverage in question shall be free of any further obligations under the provisions hereof relating to such waiver or permission.

In the event that Landlord shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, at Tenant's option Landlord shall cause Tenant to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Tenant as such as assured, Tenant shall pay such additional premium upon written demand or Landlord shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Tenant shall have been named as one of the assureds in any of Landlord's policies in accordance with the foregoing, Tenant shall endorse promptly to the order of Landlord, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Tenant hereby irrevocably waives any and all rights in and to such proceeds and payments.

In the event that Tenant shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, Tenant shall cause Landlord to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Landlord as such an assured, Landlord shall pay such additional premium upon demand or Tenant shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Landlord shall have been named as one of the assureds in any of Tenant's policies in accordance with the foregoing, Landlord shall endorse promptly to the order of Tenant, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Landlord hereby irrevocably waives any, and all rights in and to such proceeds and payments.

Subject to the foregoing provisions of this Section 10.03, and insofar as may be permitted by the terms of the insurance policies carried by it, each party hereby releases the other with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the Term of this Lease.

10.04 If, by reason of a failure of Tenant to comply with the provisions of Section 9.01 or Section 10.01, the rate of all-risk insurance on the Building or equipment or other property of Landlord shall be higher than it otherwise would be, Tenant shall reimburse Landlord, on written demand, for that part of the premiums for all-risk coverage paid by Landlord because of such failure on the part of Tenant.

10.05 If any dispute shall arise between Landlord and Tenant with respect to the incurrence or amount of any additional insurance premium referred to in Section 10.03, the dispute shall be determined by arbitration in accordance with Article 33.

10.06 Landlord shall carry all insurance as required by any mortgagee but it is expressly understood that any such insurance shall not cover any property of Tenant.

ARTICLE 11
Rules and Regulations

11.01 Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations of the Building (herein so called) and such reasonable changes therein (whether by modification, elimination or addition) as Landlord at any time or times hereafter may make and communicate in writing to Tenant, which do not unreasonably and adversely affect Tenant's rights and obligations hereunder or the conduct of Tenant's business in the Demised Premises, except as required by any governmental law, rule, regulation, ordinance or similar decree.

11.02 Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to Tenant to enforce the rules and regulations of the Building or the terms, covenants or conditions in any other lease, as against any other tenant, unless the violation of such other tenant interferes with Tenant's use and occupancy of the Demised Premises, in which case Landlord shall use commercially reasonable efforts (which efforts shall not include expenditure of funds or the institution of a civil suit) to enforce the rules and regulations and such terms, covenants and conditions against such other tenants, provided that Landlord shall not be liable to Tenant for violation of the same by any other tenant or its employees, agents or visitors. However, Landlord shall not enforce any of the rules and regulations in such manner as to discriminate against Tenant or anyone claiming under or through Tenant.

ARTICLE 12
Tenant's Changes

12.01 Subject to the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, Tenant may from time to time during the Term of this Lease, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively referred to as the "changes" and, as applied to changes provided for in this Article, "Tenant's Changes") in and to the Demised Premises, excluding structural changes, as Tenant may reasonably consider necessary for the conduct of its business in the Demised Premises, on the following conditions:

(a) the outside appearance or the strength of the Building or of any of its structural parts shall not be affected;

(b) such changes shall not be implemented in any part of the Building outside of the Demised Premises;

(c) the proper functioning of any of the mechanical, electrical, sanitary and other service systems of the Building shall not be adversely affected or the usage of such systems by Tenant shall not be materially increased;

(d) in performing the work involved in making such changes, Tenant shall be bound by and observe all of the conditions and covenants contained in the following Sections of this Article; and

(e) before proceeding with any Tenant's Changes, other than decorative or non-structural interior changes costing less than \$50,000.00 in the aggregate (collectively, the "Minor Tenant Changes"), Tenant will advise Landlord in writing thereof and, shall submit to Landlord proof reasonably satisfactory to Landlord of the cost thereof, and shall further submit the names of all of the contractors or subcontractors who will be performing Tenant's Changes for Landlord's approval, not to be unreasonably withheld, which approval as to non-structural changes shall not be unreasonably withheld. Additionally, before proceeding with any Tenant's Changes, other than Minor Tenant Changes, Tenant shall (i) submit to Landlord, when plans and specifications would customarily be required in connection with the nature of the work proposed, detailed plans and specifications for the work to be done for Landlord's approval, not to be unreasonably withheld, which approval or disapproval (and the reasons therefor) shall be given by Landlord to Tenant within ten (10) business days of the submission of such plans and specifications to Landlord; (ii) upon written demand, pay to Landlord the reasonable out of pocket costs incurred by Landlord for the review of such plans and specifications by its third party architect, engineer and other consultants, and (iii) abide by Landlord's reasonable construction requirements then in effect for the Building, including without limitation, Landlord's construction rules and regulations, except that if there are any conflicting provisions of this Lease and the construction rules and regulations, the provisions of this Lease shall prevail. Landlord may, as a condition of its approval of Tenant's plans, require Tenant to make revisions in and to the plans and specifications. If Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) in connection with Tenant's requested approval of any plans and specifications within ten (10) business days after Landlord's receipt thereof, then Tenant may deliver a second written notice to Landlord requesting Landlord's approval thereof. Thereafter, if Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) within ten (10) business days after Landlord's receipt of said second notice, then, as Tenant's sole remedy in connection therewith, and provided that said second notice shall bear the following legend typed in bold, capital letters at the top: "IF LANDLORD SHALL FAIL TO RESPOND TO TENANT IN CONNECTION WITH THIS REQUEST FOR APPROVAL WITHIN TEN (10) BUSINESS DAYS, LANDLORD SHALL BE DEEMED TO HAVE CONSENTED THERETO," Landlord shall conclusively be deemed to have approved such plans and specifications for all purposes under this Lease.

12.02 Tenant, at its sole cost and expense, shall obtain all necessary governmental permits, inspections, and certificates for the commencement and prosecution of Tenant's Changes and for final approval thereof upon completion, and shall cause Tenant's Changes to be performed in compliance therewith and with all applicable laws and requirements of all applicable local, State, and Federal public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using new materials and equipment reasonably equivalent in quality and class to the installations in the Building. Landlord shall promptly cooperate with Tenant by executing any necessary applications or other documentation reasonably required to be executed by Landlord in connection with approved Tenant's Changes. Tenant's Changes shall be performed in such manner as not to unreasonably interfere with or

delay and (unless Tenant shall indemnify Landlord therefor to the latter's reasonable satisfaction) as not to impose any additional expense upon Landlord in the maintenance or operation of the Building. Throughout the performance of Tenant's Changes, Tenant, at its expense, shall carry, or cause to be carried, workmen's compensation insurance in statutory limits and general liability insurance for any occurrence in or about the Building as set forth in Section 10.02 hereof, in which Landlord and its agents shall be named as parties insured, in such limits as Landlord may reasonably prescribe, with insurers reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of Tenant's Changes and, on request, at reasonable intervals thereafter during the continuance of Tenant's Changes. If any of Tenant's Changes shall involve the removal of any fixtures, equipment or other property in the Demised Premises which are not Tenant's Property (as defined in Article 13), such new fixtures, equipment or other property shall be promptly replaced, at Tenant's expense, with fixtures, equipment or other property (as the case may be) of like utility and at least equal value unless Landlord shall otherwise expressly consent in writing and Tenant shall, upon Landlord's request, store and preserve, at Tenant's sole cost and expense, any such fixtures, equipment or property so removed and shall return same to Landlord upon the expiration or sooner termination of this Lease. All electrical and plumbing work in connection with Tenant's Changes shall be performed by contractors or subcontractors licensed therefor by all governmental agencies having or asserting jurisdiction and reasonably acceptable to Landlord.

12.03 Tenant, at its sole cost and expense, and with diligence and dispatch, shall procure the cancellation or discharge of all notices of violation and/or mechanic's liens arising from or otherwise connected with Tenant's Changes or Tenant Work which shall be issued by the Department of Buildings or any other public or quasi-public authority having or asserting jurisdiction. Tenant shall defend, indemnify and save harmless Landlord against any and all mechanic's and other liens filed in connection with Tenant's Changes or Tenant Work, including the liens of any security interest in, conditional sales of, or chattel mortgages upon, any materials, fixtures or articles so installed in and constituting part of the Demised Premises and against all costs, expense and liabilities incurred in connection with any such lien, security interest, conditional sale or chattel mortgage or any action or proceeding brought thereon. Tenant, at its expense, shall procure the satisfaction or discharge of all such liens within sixty (60) days after Landlord makes written demand therefor. However, nothing herein contained shall prevent Tenant from contesting, in good faith and at its own expense, any such notice of violation, provided that Tenant shall comply with the provisions of Section 9.02.

12.04 Tenant agrees that the exercise of its rights pursuant to the provisions of this Article 12 or any other provision of this Lease shall not be done in a manner which would create any work stoppage, picketing, labor disruption or dispute or violate Landlord's union contracts affecting the Land and/or Building nor unreasonably interfere with the business of Landlord or any Tenant or occupant of the Building. In the event of the occurrence of any condition described above arising from the exercise by Tenant of its right pursuant to the provisions of this Article 12 or any other provision of this Lease, Tenant shall, immediately upon notice from Landlord, cease the manner of exercise of such right giving rise to such condition. In the event Tenant fails to cease such manner of exercise of its rights as aforesaid, Landlord, in addition to any rights available to it under this Lease and pursuant to law, shall have the right to injunction without notice. With respect to Tenant's Changes, Tenant shall make all arrangements

for the use of the freight elevators servicing the Demised Premises, including, without limitation, any reasonable expenses incurred as a result of any Fire Watch necessitated by the Tenant's Changes and Landlord shall cooperate with Tenant as required in connection with all such arrangements.

ARTICLE 13
Tenant's Property

13.01 Except as provided in Section 13.02, all fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term of this Lease, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises (unless Landlord gave Tenant notice prior to the time of installation that Tenant shall be required to remove same upon the expiration of the Term, in which case Tenant shall so remove such items in accordance herewith), shall be deemed the property of Landlord and shall not be removed by Tenant, except as hereinafter in this Article expressly provided.

13.02 Notwithstanding any other provision of this Lease, all movable partitions (and attached components, i.e. workstations), lighting fixtures, special cabinet work, other business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Demised Premises, which are installed in the Demised Premises by or for the account of Tenant, and can be removed without permanent structural damage to the Building, and all equipment, furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Demised Premises, (all of which are sometimes referred to as "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by it at any time during the Term of this Lease; provided that if any of Tenant's Property is removed, Tenant or any party or person entitled to remove same shall repair or pay the cost of repairing any material damage to the Demised Premises or to the Building resulting from such removal. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant or which has replaced such items originally provided by Landlord at Landlord's expense shall not be deemed to have been installed by or for the account of Tenant, without expense to Landlord, and shall not be considered Tenant's Property.

13.03 At or before the Expiration Date, or the date of any earlier termination of this Lease, or as promptly as practicable after such an earlier termination date, Tenant at its expense, shall remove from the Demised Premises all of Tenant's Property except such items thereof as Tenant shall have expressly agreed in writing with Landlord were to remain and to become the property of Landlord, and shall fully repair any damage to the Demised Premises or the Building resulting from such removal. Tenant's obligation herein shall survive the termination of the Lease.

13.04 Any other items of Tenant's Property (except money, securities and other like valuables) which shall remain in the Demised Premises after the Expiration Date or the date of any earlier termination of this Lease may, at the option of the Landlord, be deemed to have been abandoned, and in such case either may be retained by Landlord as its property or may be disposed of, without accountability, in such manner as Landlord may see fit and, any expense

incurred by Landlord in connection with the removal of any such Tenant's Property from the Demised Premises shall be paid by Tenant within five (5) days following Landlord's written demand thereof.

ARTICLE 14
Repairs and Maintenance

14.01 Tenant shall take good care of the Demised Premises, subject to ordinary wear and tear and casualty not caused by Tenant. Tenant, at its sole cost and expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural (provided, Landlord at its sole election may perform such structural or exterior work at Tenant's sole cost and expense) or otherwise, in and about the Demised Premises and the Building, as shall be required by reason of (i) the performance or existence of Tenant's Work or Tenant's Changes, (ii) the installation, use or operation of Tenant's Property in the Demised Premises, (iii) the moving of Tenant's Property in or out of the Building, or (iv) the misuse or neglect of Tenant or any of its employees, agents or contractors.

14.02 Landlord, at its expense, shall keep and maintain the Building and its fixtures, appurtenances, exterior (including, but not limited to, sidewalk maintenance and snow removal), systems and facilities serving the Demised Premises, in good working order, condition and repair and shall make all repairs, structural and otherwise, interior and exterior, as and when needed in or about the Demised Premises, except for those repairs for which Tenant is responsible pursuant to any other provision of this Lease.

14.03 Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making of any repairs or changes which Landlord is required by this Lease or law to make in or to any portion of the Building or the Demised Premises, or in or to the fixtures, equipment or appurtenances of the Building or the Demised Premises, provided that Landlord shall use reasonable diligence with respect thereto and shall perform such work, except in case of emergency, at times reasonably convenient to Tenant and otherwise in such manner as will, not materially interfere with Tenant's use of the Demised Premises; provided, however, the foregoing shall not require Landlord to perform any such repairs or changes on an overtime or premium time basis.

ARTICLE 15
Utilities

15.01 For purposes of this Article "Tenant's Cost" shall mean \$81,651.00 per year, subject to an escalation equal to any increase in the actual cost of utilities. Utilities, as used in this Article 15 shall be deemed to mean (i) electricity, (ii) water/sewer, (iii) heating and air conditioning, and (iv) natural gas costs.

15.02 Tenant shall pay the amount of Tenant's Cost set forth thereon to Landlord as Additional Rent in equal monthly installments.

15.03 Landlord hereby confirms to Tenant that the Building is equipped with risers, feeders and wiring so as to supply electrical service to the Demised Premises.

15.04 With respect to all of the provisions of this Article 15:

(a) Landlord shall not be liable or responsible to Tenant for any loss or damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements, unless caused by the gross negligence of Landlord or its agents, employees, or contractors.

(b) Tenant covenants and agrees not to connect any additional electrical equipment of any type to the Building electric distribution system without Landlord's prior written consent, which consent shall not unreasonably be withheld or delayed. In no event shall Tenant use or install any additional fixtures, equipment or machines the use which in conjunction with other approved fixtures, equipment and machines in the Demised Premises would result in an overload of the electrical circuits servicing the Demised Premises.

(c) At all times Tenant's use of electric current shall never exceed the capacity of the then existing feeders to the Building or the risers or wiring installation. Tenant shall furnish, install and replace, as required, all lighting tubes, lamps, bulbs and ballasts required in the Demised Premises, at Tenant's sole cost and expense. All lighting tubes, lamps, bulbs and ballasts so installed shall become Landlord's property upon the expiration or sooner termination of the Lease.

(d) Tenant expressly agrees that all installations, alterations and additions of and to the electrical fixtures, appliances, or equipment within the Demised Premises shall be subject to Landlord's prior written approval, and, if such approval shall be given, rigid conduit only shall be permitted. If, in connection with any request for such approval, Landlord shall, in its reasonable judgment, determine that the risers of the Building servicing the Demised Premises shall be insufficient to supply Tenant's electrical requirements with respect thereto, Landlord shall, at the sole cost and expense of Tenant, install any additional riser(s) or feeder(s) that Landlord shall reasonably deem necessary with respect thereto, provided, however that, if Landlord shall determine, in its sole judgment, that the same will cause permanent damage or injury to the Building or to the Demised Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expense, or interfere with, or disturb the other tenants or occupants of the Building, then Landlord shall not be obligated to make such installation, and Tenant shall not make the installation, alteration, or addition with respect to which Tenant requested Landlord's consent. In addition to the installation of such riser(s) or feeder(s), Landlord shall also have the right, at the sole cost and expense of Tenant, to install other equipment necessary and proper in connection therewith, subject to the aforesaid terms and conditions. All of the aforesaid costs and expenses are chargeable and collectible as Additional Rent, and shall be paid by Tenant to Landlord within thirty (30) days after rendition of any bill to Tenant therefor. Landlord represents that current watts of electrical energy per usable square foot of the Demised Premises shall remain, throughout the term, as exists on the date of this Lease, unless altered at Tenant's sole cost and expense as per the provisions contained in this Article 15. Landlord shall not make any of the foregoing installations at Tenant's cost without prior written notice to Tenant unless such installations are necessary for the safety of Building and the occupants thereof, as determined by Landlord in its sole discretion.

(e) Landlord shall cooperate with Tenant as required to provide that Tenant's access to Utilities shall at all times comply with regulatory requirements of Joint Commission on Accreditation of Healthcare Organizations or any other applicable authority with jurisdiction over Tenant's operations within the Demised Premises.

ARTICLE 16
Heat, Ventilation and Air-Conditioning

16.01 Landlord, at Landlord's expense, shall maintain and operate the heating, ventilating and air-conditioning systems (hereinafter referred to as the "systems") and, subject to energy conservation requirements of any applicable local, State, or Federal public authorities, shall furnish heat, ventilating and air-conditioning in the Demised Premises through the currently existing systems as may be required for reasonably comfortable occupancy of the Demised Premises from 6:00 AM until 12:00 AM (midnight) seven days per week during the Term hereof. If Tenant shall require heating, ventilating or air-conditioning service at any other time, Landlord shall furnish such service upon reasonable advance notice from Tenant, and Tenant shall pay on written demand Landlord's actual or reasonably estimated cost therefor.

16.02 Use of the Demised Premises, or any part thereof, in a manner exceeding the design conditions (including occupancy and connected electrical load) specified for the systems or rearrangement of partitioning which interferes with normal operation of the heat, ventilation and air-conditioning in the Demised Premises, may require changes in the heat, ventilation and air-conditioning system servicing the Demised Premises. Such changes, so occasioned, shall be made by Tenant, at its expense, as Tenant's Changes pursuant to Article 12. Tenant agrees at all times to cooperate fully with Landlord and to abide by all reasonable regulations and requirements which Landlord may prescribe for the proper functioning and protection of the heat, air-conditioning and ventilating system.

ARTICLE 17
Landlord's Other Services

17.01 Landlord, at its expense, shall provide elevator service, passenger and freight, by elevators serving the floor(s) on which the Demised Premises are situated. Freight elevators shall be available after-hours, subject to Tenant's payment of expenses reasonably and customarily charged by Landlord in connection with the use thereof.

17.02 Tenant, at its expense, shall cause the Demised Premises to be cleaned in accordance with the then current Building standard cleaning specifications and applicable law and related regulations. The cleaning specifications may be revised by Landlord in its reasonable discretion from time to time, and Landlord shall thereafter promptly provide notice of such revision(s) to Tenant.

17.03 Landlord, at its expense, and on Tenant's request, shall maintain the original listings on the Building directory of the names of Tenant, and the names of any of their officers and employees to the extent space is available for such listings.

17.04 Tenant, at its sole cost and expense, shall be permitted to affix signage to the exterior of the Building, the entrance to the Demised Premises and such locations within the

Building as are reasonably required to provide direction to the location of the Demised Premises. The placement, design and construction of any such signage shall be subject to the consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. All such signage shall, in all ways, comply with law and shall be consistent with the style and size of other signage at the Building.

17.05 Landlord shall furnish to the Demised Premises adequate hot and cold water for ordinary usage for drinking, lavatory, pantry and normal cleaning purposes at no charge to Tenant; provided, Landlord makes no representations nor in any way warrants the quality of such water for such purposes.

17.06 Landlord, throughout the Term, shall provide security services and shall be responsible for security costs for the Building at the level, hours and cost of such security in place as of the date of this Lease. Any additional security, either engaged by Landlord at Tenant's request, or engaged by Tenant directly, shall be at the sole cost and expense of Tenant.

17.07 Landlord reserves the right, without any liability to Tenant, except as otherwise expressly provided in this Lease, to stop service of any of the heating, ventilating, air conditioning, electric, sanitary, elevator or other Building systems serving the Demised Premises, or the rendition of any of the other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of accidents, emergencies, strikes or the making of repairs or changes which Landlord is required by this Lease or by law to make or in good faith deems necessary, by reason of an inability to secure proper supplies of fuel, steam, water, electricity, labor or supplies, or by reason of any other cause beyond Landlord's reasonable control. Landlord shall promptly commence and diligently and in a workmanlike manner proceed to repair and rebuild any such systems and restore any such services. Notwithstanding the foregoing, to the extent that by reason of any of the foregoing circumstances Tenant is not reasonably able to occupy the Demised Premises or any portion thereof for conduct of its business, the Fixed Rent and Tenant's Cost shall be abated with respect to that portion of the Demised Premises that is so affected.

ARTICLE 18

Access Change in Building Facilities, Name

18.01 All except the inside surfaces of all walls, windows and doors bounding the Demised Premises (including exterior Building walls, core corridor walls and doors and any core corridor entrance) and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building facilities, and the use thereof, as well as access thereto through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are reserved to Landlord. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of the rights reserved to Landlord in this Section 18.01; provided Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor).

18.02 Tenant shall permit Landlord to install, use, replace and maintain pipes, ducts and conduits within the demising walls, bearing columns and ceilings of the Demised

Premises. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of Landlord's rights under this Section 18.02; provided, however, Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor). Except in the case of an emergency, Landlord shall give Tenant not less than twenty four (24) hours notice of any such actions.

18.03 Landlord or Landlord's agent shall have the right, upon advance request (except in emergency under clause (ii) hereof) to enter and/or pass through the Demised Premises or any part thereof, at reasonable times during reasonable hours, (i) to examine the Demised Premises and to show them to Mortgagees of Superior Mortgages, or prospective purchasers, mortgagees or lessees of the Building as an entirety, and (ii) for the purpose of making such repairs or changes in or to the Demised Premises or in or to its facilities, as may be provided for by this Lease or as may be mutually agreed upon by the parties or as Landlord may be required to make by law or in order to repair and maintain said structure or its fixtures or facilities. Subject to the provisions of this Article 18, Landlord shall be allowed to take all materials into and upon the Demised Premises that are required for such repairs, changes, repainting or maintenance, without liability to Tenant, provided that such materials shall not be stored in such a way as to unreasonably interfere with Tenant's use of the Demised Premises. Tenant's Landlord shall also have the right to enter on and/or pass through the Demised Premises, or any part thereof, at such times as such entry shall be required by circumstances of emergency affecting the Demised Premises or the Building with such advance notice as is practicable under the circumstances.

18.04 Landlord reserves the right, at any time without incurring any liability to Tenant therefor, to make such changes in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators and stairways thereof, as it may deem necessary or desirable, provided such changes do not (i) unreasonably interfere with the conduct of Tenant's business in the Demised Premises, (ii) materially reduce the square foot area of the Demised Premises, (iii) materially restrict Tenant's access to the Demised Premises or (iv) materially increase any of Tenant's obligations or reduce any of Tenant's rights pursuant to this Lease.

18.05 Landlord may adopt any name for the Building. Landlord reserves the right to change the name or address of the Building.

18.06 For the purposes of Article 18, the term "Landlord" shall include Lessors and Mortgagees.

18.07 Notwithstanding anything to the contrary contained in this Lease, commencing July 1, 2010 at 6 AM and expiring on July 5, 2010 at 5 PM Tenant grants to Landlord an irrevocable license to enter the Demised Premises for the purpose of removing personal property that the Landlord is permitted to remove, which shall not include any personal property purchased by or transferred to Tenant, and for reasons relating to the closure of Landlord's operations in the Building. Landlord shall make reasonable efforts not to unnecessarily interfere with Tenant's business in the Demised Premises during the license period and Tenant shall make reasonable efforts not to unnecessarily interfere with Landlord's access to

the Demised Premises for the reasons expressly stated in the section 18.07. Landlord agrees to defend, indemnify, protect and hold harmless Tenant, and its directors, officers, employees and agents from and against any and all claims, demands, losses, costs, damages, expenses and liabilities (including, without limitation, personal injury or property damage claims or mechanics' or other liens), including reasonable attorneys' fees and disbursements, caused by, resulting from, arising out of, or occurring in connection with the presence or acts or omissions of anyone in the Demised Premises at the request or instance of Landlord; provided, however, that such indemnity and hold harmless will exclude damages arising solely out of Tenant's gross negligence or willful misconduct. The indemnity and hold harmless provisions of this section shall survive the expiration or termination of this Lease.

ARTICLE 19 **Notice of Accidents**

19.01 Tenant shall give prompt written notice to Landlord, promptly after Tenant learns thereof, of (i) any accident in or about the Demised Premises for which Landlord might be liable, (ii) all fires in the Demised Premises, (iii) all damages to or defects in the Demised Premises, including the fixtures, equipment and appurtenances thereof, for the repair of which Landlord might be responsible, and (iv) all damage to or defects in any parts or appurtenances of the Building's sanitary, electrical, heating, ventilating, air-conditioning, elevator and other systems located in or passing through the Demised Premises or any part thereof.

ARTICLE 20 **Non-Liability and Indemnification**

20.01 Neither Landlord nor any agent or employee of Landlord shall be liable to Tenant for any injury or damage to Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of, any property of Tenant or of any other person, irrespective of the cause of such injury, damage or loss, unless caused by or due to the willful misconduct or gross negligence of Landlord, its agents or employees.

20.02 Tenant shall indemnify and save harmless Landlord and its agents against and from (a) any and all claims (i) arising from (x) the conduct or management of the Demised Premises or of any business therein, (y) a breach by Tenant of this Lease or (z) any work or thing whatsoever done, or any condition created (other than by Landlord for Tenant's account) in or about the Demised Premises during the Term of this Lease or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Demised Premises, or (ii) arising from any negligent or intentionally wrongful act or omission of Tenant or any of its subtenants or licensees or its or their employees, agents or contractors, and (b) all costs, expenses and liabilities reasonably incurred in or in connection with each such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon written notice from Landlord, shall resist and defend such action or proceeding.

20.03 Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant hereunder shall not be affected, impaired or excused because Landlord is

unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of Unavoidable Delay (as defined in Section 21.03).

ARTICLE 21
Destruction or Damage

21.01 If the Building or the Demised Premises shall be partially or totally damaged or destroyed by fire or other cause, then, whether or not the damage or destruction shall have resulted from the fault or neglect of Tenant, or its employees, agents or visitors (and if this Lease shall not have been terminated as in this Article hereinafter provided), Landlord shall repair the damage and restore and rebuild the Building and/or the Demised Premises, at its expense, with reasonable dispatch after notice to it of the damage or destruction; provided, however, that Landlord shall not be required to repair or replace any of Tenant's Property nor to restore any Tenant's Work unless such damage or destruction shall have resulted from the gross negligence Landlord.

21.02 If the Building or the Demised Premises shall be partially damaged or partially destroyed by fire or other cause, the Rents payable hereunder shall be abated proportionally for the portions of Demised Premises that have been rendered untenable and for the period from the date of such damage or destruction to the date the damage shall be repaired or restored. If the Demised Premises or a major part thereof shall be totally (which shall be deemed to include substantially totally) damaged or destroyed or rendered completely (which shall be deemed to include substantially completely) untenable or inaccessible on account of fire or other cause, the Rents shall completely abate as of the date of the damage or destruction and until Landlord shall repair, restore and rebuild the Building and the Demised Premises, provided, however, that should Tenant reoccupy a portion of the Demised Premises during the period the restoration work is taking place and prior to the date that the same are made completely tenantable, Rents allocable to such portion shall be payable by Tenant from the date of such occupancy.

21.03 If the Demised Premises shall be totally damaged or destroyed by fire or other cause, Landlord may terminate at its option this Lease by giving Tenant notice to such effect within the shorter of (1) one hundred eighty (180) days after the date of the casualty, or (ii) four (4) months from the date all insurance proceeds payable as a result of such casualty are obtained by Landlord. In case of any damage or destruction mentioned in this Article, Tenant may terminate this Lease, by written notice to Landlord, if Landlord has not completed the making of the required repairs and restored and rebuilt the Building and the Demised Premises within six (6) months from the date of such damage or destruction, or within such period after such date (not exceeding four months) as shall equal the aggregate period Landlord may have been delayed in doing so by Unavoidable Delay. "Unavoidable Delay" shall mean any strikes, labor troubles or accident, or by any cause whatsoever beyond Landlord's reasonable control, including legal requirements, governmental preemption in connection with a national emergency, shortages, or unavailability of labor, fuel, steam, water, electricity or materials, Tenant Delay, delays caused by other tenants or other occupants of the Building, acts of God, enemy action, civil commotion, fire or other casualty. Notwithstanding the foregoing, if the Demised Premises are rendered wholly or substantially untenable or inaccessible and, in the reasonable estimation of Landlord's architect and insurance adjustor, the repairs necessary to restore the

Demised Premises to a tenantable condition cannot be completed within six (6) months from the date of such damage, then Tenant shall have the right upon written notice to Landlord to terminate this Lease within thirty (30) days after Tenant's receipt of Landlord's architect's and insurance adjustor's estimate (which estimate must be given to Tenant promptly after the occurrence of such casualty).

21.04 If the Demised Premises shall be substantially damaged during the last one (1) year of the Term so that, in Tenant's reasonable judgment, Tenant is not able to conduct its business within the Demised Premises, Landlord or Tenant may elect by notice, given within thirty (30) days after the occurrence of such damage, to terminate this Lease and if either party makes such election, the Term shall expire upon the thirtieth (30th) day after notice of such election is given by such party and Tenant shall vacate the Demised Premises and surrender the same to Landlord.

21.05 No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building pursuant to this Article; provided, however, that if Tenant shall be in possession of the Demised Premises or a portion thereof during any period during which repair or restoration activities are being performed pursuant to this Article, Landlord shall use its reasonable efforts to not unreasonably interfere with the conduct of Tenant's business in the Demised Premises or portion thereof occupied by Tenant.

21.06 Notwithstanding any of the foregoing provisions of this Article, if Landlord or the Lessor of any Superior Lease or the Mortgagee of any Superior Mortgage shall be unable to collect all of the insurance proceeds (including rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other cause, by reason of the intentional misconduct or negligence on the part of Tenant or any of its employees, agents or contractors, then, without prejudice to any other remedies which may be available against Tenant, there shall be no abatement of Tenant's Rents.

21.07 Landlord will not carry insurance of any kind on Tenant's Property or Tenant's Work, and, except as required by the terms of this Lease or provided by law or by reason of its fault or its breach of any of its obligations hereunder, shall not be obligated to repair any damage thereto or replace the same.

21.08 The provisions of this Article shall be considered an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

ARTICLE 22

Eminent Domain

22.01 If the whole of the Building shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose, this Lease and the Term and estate hereby granted shall forthwith terminate as of the date of vesting of title in such taking

(which date is hereinafter also referred to as the "date of the taking"), and the Rents shall be prorated and adjusted as of such date.

22.02 If only a part of the Building shall be so taken, this Lease shall be unaffected by such taking, except that Tenant may elect to terminate this Lease in the event of a partial taking, if the remaining area of the Demised Premises shall not be reasonably sufficient for Tenant to continue normal operation of its business, or if access to the Demised Premises shall be taken. Tenant shall give written notice of such election to Landlord not later than thirty (30) days after (i) notice of such taking is given by Landlord to Tenant, or (ii) the date of such taking, whichever occurs sooner. Upon the giving of such written notice by Tenant this Lease shall terminate on the date of such taking and the Rents shall be prorated as of such termination date. Upon such partial taking and this Lease continuing in force as to any part of the Demised Premises, the Rents apportioned to the part taken shall be prorated and adjusted as of the date of taking and from such date the Fixed Rent for the Demised Premises and Additional Rent shall be payable pursuant to Article 5 according to the rentable area remaining.

22.03 Landlord shall be entitled to receive the entire award in any proceeding with respect to any taking provided for in this Article without deduction therefrom for any estate vested in Tenant by this Lease and Tenant shall receive no part of such award, except as hereinafter expressly provided in this Article. Tenant hereby expressly assigns to Landlord all of its right, title and interest in or to every such award. Notwithstanding anything herein to the contrary, Tenant may, at its sole cost and expense, make a claim with the condemning authority for Tenant's moving expenses, the value of Tenant's fixtures or Tenant's Changes which do not become part of the Building or property of the Landlord, provided however that Landlord's award is not thereby reduced or otherwise adversely affected.

22.04 If the temporary use or occupancy of all or any part of the Demised Premises shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose during the Term of this Lease, Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award for such taking which represents compensation for the use and occupancy of the Demised Premises and, if so awarded, for the taking of Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Fixed Rent and Additional Rent when due, provided that Tenant may, at its option, terminate this Lease if such temporary taking shall occur within six (6) months of the end of the Term. If the period of temporary use or occupancy shall extend beyond the Expiration Date, that part of the award which represents compensation for the use or occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive so much thereof as represents the period prior to the Expiration Date and Landlord shall receive so much thereof as represents the period subsequent to the Expiration Date. All moneys received by Tenant as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Rents hereunder have been paid by Tenant shall be received, held and applied by Tenant as a trust fund for payment of the Rents falling due hereunder.

22.05 In the event of any taking of less than the whole of the Building which does not result in a termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Demised Premises which does not result in a termination or extend beyond the Expiration Date, Landlord, at its expense, and to the extent any award or awards shall be sufficient for the purpose, shall proceed with reasonable diligence to repair, alter and restore the remaining parts of the Building and the Demised Premises to substantially their former condition to the extent that the same may be feasible and so as to constitute a complete and tenantable Building and Demised Premises.

22.06 Should any part of the Demised Premises be taken to effect compliance with any law or requirement of public authority other than in the manner hereinabove provided in this Article, then (i) if such compliance is the obligation of Tenant under this Lease, Tenant shall not be entitled to any diminution or abatement of Rent or other compensation from Landlord therefor, but (ii) if such compliance is the obligation of Landlord under this Lease, the Fixed Rent hereunder shall be reduced and Additional Rents under Article 4 shall be adjusted in the same manner as is provided in Section 22.02 according to the reduction in rentable area of the Demised Premises resulting from such taking.

22.07 Any dispute which may arise between the parties with respect to the meaning or application of any of the provisions of this Article shall be determined by arbitration in the manner provided in Article 33.

ARTICLE 23

Surrender

23.01 On the last day of the Term, or on any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord in good order, condition and repair, except for ordinary wear and tear or casualty not the responsibility of Tenant hereunder and Tenant shall remove all of Tenant's Property therefrom except as otherwise expressly provided in this Lease and shall restore the Demised Premises wherever such removal results in damage thereto.

23.02 Any holding over or continued occupancy of the Demised Premises by Tenant after the Expiration Date shall not operate to extend or renew this Lease or to imply or create a new lease between Landlord and Tenant. In such event, Landlord shall have the right to immediately terminate Tenant's occupancy of the Demised Premises, or to treat Tenant's occupancy as a month-to-month tenancy, in which event Tenant shall continue to perform all of Tenant's obligations under this Lease as shall be in effect immediately prior to the expiration or date of earlier termination of this Lease; provided, however, during such period of holding over or continued occupancy Tenant shall pay to Landlord on the first day of each month during such period of Tenant's use and occupancy of the Demised Premises, the sum of (i) two times the Fixed Rent, plus (ii) all items of Additional Rent, payable to Landlord hereunder on the first day of the calendar month immediately preceding the month in which the expiration or early termination of this Lease shall occur ("**Hold Over Rent**"). In no event however, shall Tenant be relieved of any liability to Landlord for damages resulting from such holding over. Tenant agrees to indemnify and hold Landlord harmless from and against any costs, losses, damages and expenses suffered or incurred by Landlord as a result of Tenant's holding over or continued

occupancy of the Demised Premises for more than thirty (30) days beyond the date of expiration earlier termination of this Lease, including, but not limited to such damages as Landlord may suffer as a result of its inability to lease the Demised Premises or any part thereof to a new tenant following the Expiration Date solely by reason of Tenant's holding over as provided herein.

ARTICLE 24
Conditions of Limitation; Events of Default

24.01 To the extent permitted by applicable law this Lease and the Term and estate hereby granted are subject to the limitation that whenever Tenant shall make an assignment of the property of Tenant for the benefit of creditors, or shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Tenant under any bankruptcy or insolvency law, or whenever a petition shall be filed or against Tenant under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a petition shall be filed by Tenant under the arrangement provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Tenant or of or for the property of Tenant shall be appointed, then, Landlord, (a) at any time after receipt of written notice of the occurrence of any such event, or (b) if such event occurs without the acquiescence of Tenant, at any time after the event continues for one hundred twenty (120) days, Landlord may give Tenant a written notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of service of such notice of intention, and upon the expiration of said five (5) day period this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages' as provided in Article 26.

24.02 Each of the following occurrences, upon the giving of the applicable notice and expiration of the applicable cure period, shall be deemed Events of Default under this Lease:

(a) whenever Tenant shall default in the payment of any installment of Fixed Rent, or in the payment of any Additional Rent or any other charge payable by Tenant to Landlord, on any day upon which the same ought to be paid, and such default shall continue for five (5) business days after Landlord shall have given Tenant a written notice specifying such default;

(b) whenever Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability (as more particularly described in Section 9.02) or foreclosure of any Superior Mortgage, if Tenant shall not, (i) within said thirty (30) day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently prosecute to completion all steps necessary to remedy

the same and (iii) complete such remedy within such time after the date of the giving of said notice to Landlord as shall reasonably be necessary;

(c) whenever (i) Landlord or Tenant shall have received notice of a violation of any local, State, or Federal law or regulation from any public authority resulting from a failure by Tenant to comply with such law or regulation and (ii) Tenant shall have failed to remedy the same within sixty (60) days after the date Tenant received notice of such violation, or if such violation is not susceptible to remedy within such sixty (60) day period, if Tenant shall have failed to promptly commence and thereafter diligently pursue remedy of the same;

(d) whenever any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term hereof would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted by Article 8; or

(e) if Landlord shall have terminated Tenant's lease with respect to premises within the Annex.

ARTICLE 25 Re-Entry by Landlord

25.01 Upon the occurrence of an Event of Default, Landlord or Landlord's agents and employees may immediately or at any time thereafter re-enter the Demised Premises, or any part thereof, in the name of the whole, either by summary dispossess proceedings or by any suitable action or proceeding at law, or by any other legal means, without being liable to indictment, prosecution or damages therefor (except to the extent resulting from Landlord's gross negligence or willful misconduct), and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises again as and of its first estate and interest therein. The word re-enter, as herein used, is not restricted to its technical legal meaning. In the event of any termination of this Lease under the provisions of this Lease or if Landlord shall re-enter the Demised Premises under the provisions of this Article by or under any summary dispossess or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall thereupon pay to Landlord the Fixed Rent and Additional Rent payable by Tenant to Landlord up to the time of such termination of this Lease, or of such recovery of possession of the Demised Premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided in Article 26.

25.02 In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right of injunction. The special remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may lawfully be entitled at any time and Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein. In the event of a breach or threatened breach by Landlord of any of its obligations under this Lease, Tenant shall have the right of injunction in addition to any other remedy which may be available to Tenant hereunder, allowed at law or in equity. The remedies to which Tenant may resort hereunder are cumulative and are not intended to be exclusive of any other remedies to which Tenant may lawfully be entitled at any time and

Tenant may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein.

25.03 If this Lease shall terminate under the provisions hereof, or if Landlord shall re-enter the Demised Premises under the provisions of this Article, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all moneys, if any, paid by Tenant to Landlord, whether as advance Rent, security or otherwise, but such moneys shall be credited by Landlord against any Fixed Rent or Additional Rent due from Tenant at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant under Article 26 or pursuant to law.

ARTICLE 26

Damages

26.01 If this Lease is terminated under the provisions of this Lease, or if Landlord shall re-enter the Demised Premises under the provisions of Article 25, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(a) A sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then discounted present value of the excess, if any, of

(1) the aggregate of the Fixed Rent and the Additional Rent payable hereunder which would have been payable by Tenant (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date, had this Lease not so terminated or had Landlord not so re-entered the Demised Premises, over

(2) The aggregate rental value of the Demised Premises for the same period, or

(b) sums equal to the Fixed Rent and the Additional Rent (as above presumed) payable hereunder which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Demised Premises, payable upon the due dates therefor specified herein following such termination or such re-entry and until the Expiration Date, provided, however, that if Landlord shall relet the Demised Premises during said period, or receive any other income or consideration in connection with the use or occupancy of the Demised Premises, Landlord shall credit Tenant with the net rents received by Landlord from such reletting (or the net amounts of such other income or consideration), such net rents and other amounts to be determined by first deducting from the gross rents and other amounts as and when received by Landlord the reasonable and actual expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof,

as well as the reasonable and actual expenses of reletting, including altering and preparing the Demised Premises for new tenants, brokers' commissions, and all other customary and reasonable expenses properly chargeable against the Demised Premises and the rental therefrom; it being understood that any such reletting may be for a period shorter or longer than the remaining Term; but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this Subsection to a credit in respect of any net rents from a reletting or any net amounts of such other income or consideration, except to the extent that such net rents or other amounts are actually received by Landlord. If the Demised Premises or any part thereof should be relet in combination with other space, then proper apportionment on a rentable square foot basis (for equivalent space) shall be made of the rent received from such reletting and of the expenses of reletting.

If the Demised Premises or any part thereof be relet by Landlord for the unexpired portion of the Term, or any part thereof, before presentation of proof of such damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall, prima facie, be the fair and reasonable rental value for the Demised Premises, or part thereof, so relet during the term of the reletting, provided that such reletting shall constitute a bona-fide arm's-length third party transaction.

Notwithstanding any other provision of this Lease, if the Demised Premises or any part thereof shall be used or occupied by Landlord or any affiliate of Landlord for the unexpired portion of the Term, or any part thereof, the value of such occupancy shall be conclusively deemed to be equal to the Fixed Rent and Additional Rent that would otherwise be due under this Lease and Tenant shall have no liability with respect to any such amounts; provided, however, that if Landlord or any Landlord affiliate occupies only a portion of the Demised Premises, the Fixed Rent and Additional Rent attributable to such occupancy shall be in proportion to the space occupied as compared with the entire Demised Premises.

26.02 Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired if it had not been so terminated under the provisions of this Lease, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Nothing herein contained shall be construed to limit or prejudice the right of Landlord to prove for and obtain as liquidated damages by reason of the termination of this Lease or re-entry on the Demised Premises for the default of Tenant under this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved whether or not such amount be greater, equal to, or less than any of the sums referred to in Section 26.01.

ARTICLE 27
Waivers

27.01 Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease for the Term hereby demised after being dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the termination of this Lease as herein provided.

27.02 In the event that Tenant is in arrears in payment of Fixed Rent or Additional Rent hereunder after notice and the expiration of the applicable cure periods, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited, and Tenant agrees that Landlord may apply any payments made by Tenant to any items it sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

27.03 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Demised Premises, including any claim of injury or damage, or any emergency or other statutory remedy with respect thereto.

27.04 The provisions of Articles 16 and 17 shall be considered expressed agreements governing the services to be furnished by Landlord, and Tenant agrees that any laws and/or requirements of public authorities, now or hereafter in force, shall have no application in connection with any enlargement of Landlord's obligations with respect to such services unless Tenant agrees, in writing, to pay to Landlord, as Additional Rent, Landlord's reasonable charges for any additional services provided.

ARTICLE 28
No Other Waivers or Modifications

28.01 The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No executory agreement hereafter made between Landlord and Tenant shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge or termination or effectuation of the abandonment is sought.

28.02 The following specific provisions of this Section shall not be deemed to limit the generality of any of the foregoing provisions of this Article:

(a) No agreement to accept a surrender of all or any part of the Demised Premises shall be valid unless in writing and signed by Landlord. The delivery of keys to an employee of Landlord or of its agent shall not operate as a termination of this Lease or a surrender of the Demised Premises. If Tenant shall at any time request Landlord to sublet the Demised Premises for Tenant's account, Landlord or its agent is authorized to receive said keys for such purposes without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord from any liability for loss or damage to any of Tenant's property in connection with such subletting, except to the extent resulting from Landlord's gross negligence or willful misconduct.

(b) The receipt by Landlord of Rent with knowledge of breach of any obligation of this Lease shall not be deemed a waiver of such breach.

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

ARTICLE 29

Curing Tenant's Defaults, Additional Rent

29.01 (a) If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the reasonable expense of Tenant, without notice, in a case of emergency, and in any other case, only if such default continues after the expiration of (i) five (5) business days from the date Landlord gives Tenant written notice of intention so to do, or (ii) the applicable grace period provided in Section 24.02 or elsewhere in this Lease for cure of such default, whichever occurs later;

(b) if Tenant is late in making any payment due to Landlord from Landlord under this Lease for more than fifteen (15) days, then interest shall become due and owing to Landlord on such payment from the date when it was due computed at the following rates:

(i) For an individual or partnership tenant, computed at the maximum legal rate of interest;

(ii) for a corporate tenant, computed at three (3%) percent per annum over the then prime rate of Citibank, N.A., or its successor, but in no event in excess of the maximum legal rate of interest chargeable to corporations in the State of New York.

29.02 Bills for any reasonable out-of-pocket expenses incurred by Landlord in connection with any such performance by it for the account of Tenant, and bills for all reasonable out-of-pocket costs, expenses and disbursements of every kind and nature whatsoever, including reasonable counsel fees, involved in collecting or endeavoring to collect the Fixed Rent or Additional Rent or any part thereof or enforcing or endeavoring to enforce any rights against

Tenant, under or in connection with this Lease, or pursuant to law, including any such cost, expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished, or rendered, by Landlord or at its instance to Tenant, may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and such amounts shall be due and payable in accordance with the terms of such bills, but not sooner than thirty (30) days after the rendering of such bills, together with reasonable documentation with respect to such expenses. Notwithstanding anything to the contrary contained in this Section, Tenant shall have no obligation to pay the costs, expenses or disbursements of Landlord in any proceeding in which there shall have been rendered a final judgment against Landlord, and the time for appealing such final judgment shall have expired (the "**Appeal Deadline**") and, within thirty (30) days following the Appeal Deadline, Landlord shall reimburse to Tenant any amounts on account thereof that were previously paid by Tenant to any such party.

ARTICLE 30

Brokers

30.01 Landlord and Tenant covenant, warrant and represent to each other that there were no brokers or finders (the "**Brokers**") instrumental in consummating this Lease and that no conversations or negotiations were had with any Brokers concerning the renting of the Demised Premises. Landlord and Tenant each agree to indemnify and hold the other party harmless from and against any claims or suits for a brokerage commission or finder's fee arising out of any conversations or negotiations had by the indemnifying party, as the case may be, with any Brokers.

ARTICLE 31

Notices

31.01 In order for the same to be effective, each and every notice, request or demand permitted or required to be given by the terms and provisions of this Lease, or by any laws and/or requirements of public authorities, either by Landlord to Tenant or by Tenant to Landlord (any of the foregoing being referred to in this Article 31 as a "Notice"), shall be given in writing, in the manner provided in this Section 31.01, unless expressly provided otherwise elsewhere in this Lease. All Notices shall be delivered by hand or by a nationally recognized overnight courier, and shall be deemed to have been delivered on the date of receipt thereof (or the date that such receipt is refused, if applicable). In the case of Notices given by Landlord to Tenant, any such Notice shall be addressed to Tenant at the following address: 16 East 16th Street, New York, New York 10003 to the attention of Dr. Neil Calman, with copies to Manatt, Phelps & Phillips, LLP, 7 Times Square, New York, New York 10036, Attention: Helen R. Pfister and the Dormitory Authority of the State of New York, 515 Broadway, Albany, New York 12207-2964. In the case of Notices given by Tenant to Landlord, any such Notice shall be addressed to Landlord as follows: 1879 Madison Avenue, New York, New York 10035, Attn: Mr. John Maher, with copies to: Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019, Attention: Charles E. Simpson and the Dormitory Authority of the State of New York, 515 Broadway, Albany, New York 12207-2964, and with copies thereof delivered as aforesaid to any additional parties designated in accordance with Section 6.02. Either party may, by notice as aforesaid, designate a different address or addresses for Notices.

31.02 Notices may be given on behalf of Landlord by Windels Marx Lane & Mittendorf, LLP and on behalf of Tenant by Manatt, Phelps & Phillips, LLP.

ARTICLE 32

Estoppel Certificate, Memorandum

32.01 (a) Tenant agrees, at any time and from time to time, as requested by Landlord, upon not less than ten (10) business days' prior written notice, to execute and deliver to Landlord, or such person(s) indicated by Landlord in its request, a statement certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (b) certifying the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Landlord is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Landlord may be dealing.

(b) Landlord agrees, at any time and from time to time, as requested by Tenant, upon not less than ten (10) business days' prior written notice, to execute and deliver to Tenant a statement certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, and (ii) the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Tenant is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Tenant may be dealing.

ARTICLE 33

Arbitration

33.01 Either party may request arbitration of any matter in dispute wherein arbitration is expressly provided in this Lease as the appropriate remedy. The party requesting arbitration shall do so by giving notice to that effect to the other party, and both parties shall promptly thereafter jointly apply to the American Arbitration Association (or any organization successor thereto) in the City and County of New York for the appointment of a single arbitrator.

33.02 The arbitration shall be conducted in accordance with the then prevailing rules of the American Arbitration Association (or any organization successor thereto) in the City and County of New York. In rendering such decision and award, the arbitrator shall not add to, subtract from or otherwise modify the provisions of this Lease.

33.03 If for any reason whatsoever a written decision and award of the arbitrator shall not be rendered within sixty (60) days after the appointment of such arbitrator, then at any time thereafter before such decision and award shall have been rendered either party

may apply to the Supreme Court of the State of New York or to any other court having jurisdiction and exercising the functions similar to those now exercised by such court, by action, proceeding or otherwise (but not by a new arbitration proceeding) as may be proper to determine the question in dispute consistently with the provisions of this Lease.

33.04 The expenses of the arbitration shall be borne by the party that is not the prevailing party, except that each party shall be responsible for the fees and expenses of its own counsel.

ARTICLE 34

No Other Representations; Construction; Governing Law; Consents; Lease Not Binding Unless Executed and Delivered; No Recording

34.01 Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement which may be made between the parties concurrently with the execution and delivery of this Lease and shall expressly refer to this Lease including, without limitation, that certain Definitive Agreement Regarding Asset Purchase and Services by and among Landlord, Tenant and North General Diagnostic and Treatment Center, dated as of July 1, 2010. This Lease and said other written agreement(s) made concurrently herewith are hereinafter referred to as the "lease documents". It is understood and agreed that all understandings and agreements heretofore had between the parties are merged in the lease documents, which alone fully and completely express their agreements and that the same are entered into after full investigation, neither party relying upon any statement or representation not embodied in the lease documents, made by the other. Tenant and Landlord each represent that it has the right, power and authority to enter into this Lease, and that the party executing this Lease on such party's behalf has due authority, and no third party consent is required in connection therewith.

34.02 If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

34.03 This Lease shall be governed in all respects by the substantive laws of the State of New York without regard to principles of conflicts of laws thereof.

34.04 Wherever in this Lease Landlord's consent or approval is required, if Landlord shall refuse such consent or approval, Tenant in no event shall be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, for specific performance, injunction or declaratory judgment.

34.05 Submission of this Lease for execution shall confer no rights nor impose any obligations on either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties.

34.06 Tenant covenants and agrees that it shall not place of record this Lease or a memorandum thereof and that the placement of record of this Lease or a memorandum thereof by Tenant shall constitute the breach by Tenant of a material covenant of this Lease.

34.07 Tenant, at Tenant's sole cost and expense, shall have the right to install a sign on the entrance doors to the Demised Premises, which sign (the content, location and materials of which) shall be subject to the terms hereof, and Landlord's prior consent, not to be unreasonably withheld or delayed.

ARTICLE 35 **Parties Bound**

35.01 The obligations of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 8 shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 24. However, the obligations of Landlord under this Lease shall not be binding upon Landlord herein named with respect to any period subsequent to the transfer of its interest in the Building as owner or lessee thereof and in event of such transfer said obligations shall thereafter be binding upon each transferee of the interest of Landlord herein named as such owner or lessee of the Building, but only with respect to the period ending with a subsequent transfer within the meaning of this Article.

35.02 If Landlord shall be an individual, joint venture, tenancy in common, co-partnership, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Tenant shall look only to such Landlord's estate and property in the Building, any insurance or condemnation proceeds with respect thereto, the sales proceeds thereof, and, where expressly so provided in this Lease, to offset against the Rents payable under this Lease, for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of such Landlord or any partner, member, officer or director thereof, disclosed or undisclosed shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord's and Tenant hereunder or Tenant's use or occupancy of the Demised Premises.

35.03 This Lease may be executed in a number of identical counterparts, all of which shall constitute a single Lease. This Lease may be executed by facsimile or electronically distributed signatures with the same effect as if such signatures were original.

ARTICLE 36
Certain Definitions and Construction

36.01 For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires the definitions set forth in the Exhibits annexed hereto shall be utilized.

36.02 The various terms which are italicized and defined in other Articles of this Lease or are defined in Exhibits annexed hereto, shall have the meanings specified in such other Articles and such Exhibits for all purposes of this Lease and all agreements supplemental thereto, unless the context shall otherwise require.

ARTICLE 37
Adjacent Excavation - Shoring

37.01 If an excavation or other substructure work shall be made upon land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Demised Premises for the purpose of doing such work as shall be necessary to preserve the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement or Rent. In the event that Landlord or its employees or contractors shall perform or cause to be performed such work, Landlord shall use reasonable efforts to cause the foregoing to be performed in such a manner as to minimize interference with Tenant's operation of its business in the Demised Premises, and Landlord shall indemnify Tenant from and against claims arising from the gross negligence or willful misconduct of Landlord in the performance of such work, together with all reasonable, actual out-of-pocket costs, expenses and liabilities incurred in or in connection with each such claim or action or proceeding brought thereon, including, without limitation, all reasonable attorneys' fees and expenses.

ARTICLE 38
Reentry by Landlord

In accordance with the requirements of 10 NYCRR Section 600.2, the parties agree as follows:

(a) "The landlord acknowledges that his rights of reentry into the premises set forth in this lease do not confer on him the authority to operate a hospital as defined in article 28 of the Public Health law on the premises and agrees that he will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, N.Y. 12237, notification by certified mail of this intent to reenter the premises or to initiate dispossession proceedings to exercise a right of reentry or to initiate such proceedings or at least 60 days before expiration of the lease."

"Upon receipt of notice from the landlord of his intent to exercise the reentry or upon the service of process in dispossession proceedings and 60 days prior to the expiration of the lease, the tenant shall immediately notify by certified mail the New York State Department of

Health, Tower Building, Empire State Plaza, Albany, NY 12237, of the receipt of such notice or service of such process or that the lease is about to expire.”

[LEASE SIGNATURE PAGE FOLLOWS]

[LEASE SIGNATURE PAGE]

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: _____
Name:
Title:

TENANT:

The Institute for Family Health,
a New York not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

EXHIBIT B

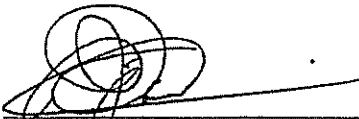
DEMISED PREMISES

[LEASE SIGNATURE PAGE]

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: 

Name: Dr. Samuel Daniels
Title: President + CEO

TENANT:

The Institute for Family Health,
a New York not-for-profit corporation

By: _____

Name:
Title:

[LEASE SIGNATURE PAGE]

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: _____

Name:

Title:

TENANT:

The Institute for Family Health,
a New York not-for-profit corporation

By:  _____

Name:

Title:

Neil Calman
President & CEO

ATTACHMENT #2

**NORTH GENERAL HOSPITAL,
Landlord**

TO

**THE INSTITUTE FOR FAMILY HEALTH
Tenant**

LEASE

**Premises: Portion of North General Hospital Annex Building, as more particularly
described herein, located at 1824 Madison Avenue, New York, New York**

as of July 1, 2010

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EXHIBITS:

- EXHIBIT A – LEGAL DESCRIPTION OF LAND
- EXHIBIT B – DEMISED PREMISES

This Index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision thereof.

LEASE

LEASE (this "Lease"), dated as of July 1, 2010 (the "Effective Date"), between North General Hospital, a New York not-for-profit corporation, having an office address at 1879 Madison Avenue, New York, New York 10035, Attn: Mr. John Maher (hereinafter referred to as "Landlord") and The Institute for Family Health, a New York not-for-profit corporation, having an office at 16 East 16th Street, New York, New York 10003 (hereinafter referred to as "Tenant").

WITNESSETH:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant, intending to be legally bound, hereby agree as follows:

ARTICLE 1

Demise, Premises, Term, Rents

1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the premises hereinafter described in the building located at 1824 Madison Avenue, commonly known as North General Hospital Annex Building, in the Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "Building"), on the parcel of land more particularly described in Exhibit A attached hereto (hereinafter referred to as the "Land"), together with the non-exclusive right to use the common areas of the Building, for the Term (as herein defined) hereinafter stated, for the Rents (as defined herein) hereinafter reserved and upon and subject to the conditions (including limitations, restrictions and reservations) and covenants hereinafter provided. Each party hereby expressly covenants and agrees to observe and perform all of the conditions and covenants herein contained on its part to be observed and performed.

1.02 The premises (the "Demised Premises") hereby leased to Tenant consist of approximately 4,650 rentable square feet on the first floor, as more particularly shown in Exhibit B attached hereto. The Demised Premises includes all fixtures and equipment which at the commencement, or during the Term, of this Lease are thereto attached (except items not deemed to be included therein and removable by Tenant as provided in Article 13).

1.03 The term of this Lease (hereinafter referred to as the "Term"), shall commence on the Effective Date, and shall end at noon on the day prior to the second year anniversary of the Effective Date, subject to extension by the Renewal Term (as hereinafter defined) pursuant to the terms of this Lease (hereinafter referred to as the "Expiration Date"), or on such earlier date on which the Term may expire or be cancelled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law.

1.04 The "Rent or Rents" reserved under this Lease, for the Term thereof, shall be and consist of:

(a) Tenant will pay annual rent "Fixed Rent" for each Lease Year (as hereinafter defined) commencing on the Effective Date, as follows, including any Fixed Rent for the Renewal Term (as herein defined):

- (i) Lease Year 1 \$139,500.00 (\$11,625.00 per month)
- (ii) Lease Year 2: \$143,685.00 (\$11,973.75 per month)
- (iii) Lease Year 3 (option year): \$147,995.55 (\$12,332.96 per month)
- (iv) Lease Year 4 (option year): \$152,435.42 (\$12,702.95 per month)

which shall be payable without offset or abatement, except as expressly set forth in this Lease, in equal monthly installments in advance on the first day of each and every calendar month during the Term of this Lease; and

(b) **“Additional Rent”** consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Fixed Rent);

all to be paid to the Dormitory Authority of the State of New York (the **“Authority”**) at its offices located at 515 Broadway, Albany, New York 12207-2964, in respect of the obligations owed to the Authority in connection with (i) those certain Secured Hospital Revenue Refunding Bonds (North General Hospital), Series 2003 issued in respect of obligations of Landlord (ii) that certain Loan Agreement dated as of January 3, 2003 between the Authority and Landlord, (iii) that certain Amended and Restated Reimbursement Agreement dated July 23, 2004 between the Authority and Landlord, in each case as amended, restated, supplemented or otherwise modified to date, any other prepetition loan agreements between the Authority and the Landlord; and (iv) that certain Senior Secured Priming and Superpriority Debtor-in-Possession Credit Agreement dated on or about the date of this Lease, among Landlord, North General Diagnostic and Treatment Center, North General Services Corporation and the Authority, or such other place, or to such agent and at such place, as the Authority may designate by written notice to Tenant, in lawful money of the United States of America.

1.05 Tenant shall pay the Fixed Rent and Additional Rent herein reserved promptly as and when the same shall become due and payable, without demand therefor and without any abatement, deduction or setoff, except as expressly set forth in this Lease, subject to any grace period provided hereunder.

1.06 If the date on which Fixed Rent is first due hereunder occurs on a day other than the first day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month and paid on such first due date. Tenant shall pay the first month Fixed Rent on the Effective Date. If the Term shall end on a date other than the last day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month.

1.07 Provided that this Lease is in full force and effect on the date Tenant delivers the Renewal Notice (as hereinafter defined) or at any time thereafter through the commencement date of the Renewal Term, Tenant shall have one (1) two (2) year renewal option (**“Renewal Option”**) to renew this Lease for one (1) two (2) year term (**“Renewal Term”**) at the Rents and upon the other terms set forth herein by delivering notice to Landlord (**“Renewal**

Notice") exercising the Renewal Option no later than ninety (90) days prior to the expiration of the Term. In the event that Tenant shall fail to deliver the Renewal Notice in accordance with the provisions hereof, Tenant shall be deemed to have forever waived its right to exercise the Renewal Option and Tenant shall have no further right to renew or extend the Term of this Lease. Time shall be of the essence with respect to Tenant's exercise of the Renewal Option and delivery of the Renewal Notice. Tenant shall have no right to renew or extend this Lease beyond the expiration of the Renewal Term.

1.08 Notwithstanding anything to the contrary contained in this Lease, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect upon the earlier to occur of (a) the expiration or termination of this Lease by Landlord pursuant to the terms of this Lease or pursuant to law, (b) the termination or surrender by Tenant of Tenant's right to possession of the Demised Premises pursuant to the terms of this Lease, and (c) the failure of Tenant to timely and properly exercise the Renewal Option. Notwithstanding anything to the contrary contained in this Lease, (i) Tenant shall diligently pursue and use commercially reasonable efforts to obtain a grant from HEAL grant funding and/or Federal grant funding (collectively, the "Grant") in an amount sufficient, coupled with other available funds, for the rehabilitation of the Building and such commercially reasonable efforts shall commence within fifteen days of the beginning of the Term, (ii) if Tenant fails to comply with the terms contained in this sentence, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect, and (iii) upon the receipt of any portion of the Grant proceeds, Tenant will promptly apply such proceeds to costs in connection with the rehabilitation of the Building as permitted by and in accordance with the terms of the Grant.

1.09 This Lease and the obligations of both parties hereunder, are conditioned upon the written consent (the "Consent") of the Authority and the State Department of Health ("DOH"). This Lease and any modifications or amendments hereof shall not take effect and be binding upon Landlord and Tenant until the Authority and DOH provides the Consent. Landlord and Tenant shall submit all documents reasonably required by the Authority and DOH in connection with the request for Consent and shall otherwise use their best efforts to cause the Authority and DOH to provide the Consent. In the event that Landlord receives written notice from the Authority or DOH that the Consent will not be granted, (a) Landlord and Tenant shall cooperate in good faith to appeal the Authority or DOH's failure to provide Consent or otherwise use their best efforts to cause the Authority or DOH to provide the Consent or (b) if Landlord and Tenant mutually agree in writing to not further pursue the Consent, this Lease shall automatically terminate and shall be null, void and of no further force or effect as of a date specified in such writing.

1.10 As used in this Lease, the Term "Lease Year" shall mean each successive period of twelve (12) consecutive months during the Term of this Lease, with the first Lease Year (including any partial month) commencing on the Effective Date.

1.11 Tenant acknowledges that it has no rights to any development rights, "air rights" or comparable rights appurtenant to the Land and Building, and consents, without further consideration, to any utilization or transfer of such rights by Landlord and agrees to promptly execute and deliver any instruments which may be reasonably requested by Landlord, including

instruments merging zoning lots, evidencing such acknowledgment and consent. The provisions of this Section 1.11 shall be deemed to be and shall be construed as an express waiver by Tenant of any interest Tenant may have as a "party in interest" (as such quoted term is defined in Section 12-10 of the Zoning Resolution of the City of New York) in the Land and Building. The terms of this Section shall be self operative and shall serve as a waiver of any "party in interest" rights Tenant pursuant to the terms of the Zoning Resolution of the City of New York.

ARTICLE 2

Use

2.01 Tenant shall use and occupy the Demised Premises for ambulatory services such as, but not limited to, physician's services (including diagnosis, therapy, and consultation, including if the physician examines the patient in person or is able to visualize some aspect of the patient's condition without the interposition of a third person's judgment), services and supplies incident to a physician's services, services of nurse practitioners, physician assistants (including certified nurse midwives), services and supplies incident to the services of nurse practitioners and physician assistants (including services furnished by nurse midwives), visiting nurse services to the homebound, clinical psychologist and clinical social worker services, services of registered dietitians or nutritional professionals for diabetes training services and medical nutrition therapy, as well as drugs which are otherwise covered but are furnished by, and incident to, services of physicians and non physician practitioners of Tenant and related administrative purposes. Notwithstanding anything to the contrary contained herein, in no event shall the Demised Premises or Tenant's demised premises in North General Hospital be used in violation of that certain Tax Regulatory Agreement that will be entered into subsequent to the execution of this Lease (the "Tax Regulatory Agreement"), between the Authority and New York City Health and Hospitals Corporation.

2.02 If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises, or any part thereof, and if failure to secure such license or permit would in any way materially and adversely affect Landlord, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and make a copy of such license available to Landlord upon request. Tenant shall at all times comply with the terms and conditions of each such license or permit if failure to so comply would in any way materially and adversely affect Landlord.

2.03 Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the certificate of occupancy for the Demised Premises or for the Building (provided that Landlord represents that the certificate of occupancy does and shall continue to permit use of the Demised Premises for executive and general office use including the use as described in Section 2.01). Tenant shall not use any part of the Demised Premises for reselling to other tenants of the Building any telecommunications services, satellite capacity, electricity or other similar services (except in connection with any sublease permitted hereunder).

2.04 Landlord covenants and agrees that, during the Term, and so long as this Lease is in full force and effect, Landlord will not use or enter into any lease or occupancy

agreement of any kind for the Building or any other premises which would establish or permit any tenant or occupant to use the Building or any other Landlord property within fifteen (15) blocks in any direction of the Building in a way that would compete with Tenant's business at the Demised Premises and Tenant may make demand upon Landlord, with respect to a facility established by Landlord, or any tenant or occupant of Landlord's, as applicable, for the cessation of any activity or business in violation of the use restriction set forth herein, and enforce the provisions of this section by an action or proceeding in any court of competent jurisdiction against Landlord or against any such tenant or occupant, as applicable, by injunction or otherwise. The non-compete provisions contained in this section shall not apply to any facility owned or operated by Landlord as of the date of this Lease. Except to the extent due to the intentional misconduct of Landlord, Landlord shall not be liable or obligated to Tenant for any breach of the foregoing restrictions by any Landlord tenant, nor shall any such breach in any way release or relieve Tenant of any of its obligations hereunder. Notwithstanding anything to the contrary contained in this Lease, if the Lease is terminated or if Tenant fails to pay Fixed Rent, subject to any applicable grace or notice and cure period, Landlord shall have no obligation to Tenant with respect to noncompetition as set forth in this Section 2.04.

ARTICLE 3

"As Is"; Preparation of the Demised Premises

3.01 Tenant acknowledges that it has had an opportunity to inspect the Demised Premises prior to the Effective Date, and Tenant will accept possession of the Demised Premises on the Effective Date in their then "as is" condition. All installations connecting to any Base Building System and construction work which may be required by Tenant to prepare the Demised Premises for Tenant's initial occupancy (hereinafter referred to as "Tenant's Work") shall be performed at Tenant's sole cost and expense utilizing, as may be necessary in connection with such work, a general contractor, mechanical and electrical engineers, contractors and subcontractors, all as approved by Landlord in writing, such approval not to be unreasonably withheld, conditioned or delayed. The contractors and subcontractors performing Tenant's Work in the Building shall also be reasonably acceptable to Landlord. Tenant's Work shall be performed by Tenant in accordance with the applicable provisions of this Lease, including, without limitation, Article 12, it being agreed by the parties that Tenant's Work shall be deemed to include Tenant's Changes (as defined in Article 12). All Tenant's Work shall be subject Landlord approval, which shall not be unreasonably withheld, conditioned or delayed and shall be subject to the terms of Section 12.01(e). Detailed plans for all Tenant's Work, including the names and any information reasonably requested by Landlord relating to the proposed contractors, subcontractors and engineers, shall be submitted to Landlord and Tenant shall not commence any such work prior to its receipt of Landlord's consent.

ARTICLE 4

Adjustments of Rent

4.01 For purposes of this Lease:

A. The term "Escalation Year" shall mean each calendar year which shall include any part of the Term following the calendar year 2010.

B. The term "**Base Operating Factor**" shall mean Operating Expenses (defined hereinafter) for the 2010 calendar year; provided that, for purposes of determining the Base Operating Factor, Operating Expenses that vary with occupancy of the Building and are attributable to any part of the 2010 calendar year in which less than one hundred percent (100%) of the rentable area of the Building is occupied shall be adjusted to the amount that such Operating Expenses would have been if one hundred percent (100%) of the rentable area of the Building had been occupied for the entire 2010 calendar year.

C. The term "**Tenant's Proportionate Share - Expenses**" shall be deemed to mean 20%, subject to equitable adjustment when the total square footage of the Building is determined. The parties shall cooperate to expeditiously make such determination and shall make necessary adjustments, if any, in payments made prior to such determination.

D. The term "**Base Rate**" shall mean the rate of interest publicly announced from time to time by Citibank, N.A., or its successor, as its "base rate" (or such other term as may be used by Citibank, N.A., from time to time, for the rate presently referred to as its "base rate").

E. The term "**Amortized Expenses**" shall mean the annual amortization (on a straight line basis over a depreciable life in accordance with generally accepted accounting principles consistently applied) of expenditures incurred by Landlord after the Commencement Date for any equipment, device or capital improvement which is required by law or insurance requirements or which is designed as a labor saving measure or designed to effect other economies or efficiencies in the operation or maintenance of the Property or the Building equipment, in each case, only to the extent of the savings created by such expenditures.

F. The term "**Operating Expenses**" shall mean Amortized Expenses and all other costs and expenses (and taxes thereon, if any) paid or incurred by Landlord or on behalf of Landlord with respect to the operation, cleaning, repair, safety, management, heating, ventilating and air conditioning of the Building, including the Building condenser water system (the "**Base Building System**"), security and maintenance of the Property, Building equipment, sidewalks, curbs, plazas and other areas adjacent to the Building, sewer and water rents, rates and charges, and all insurance carried by Landlord on the Demised Premises, including, but not limited to, all insurance required to be maintained under any mortgage and all insurance against loss or liability with respect to the payments or revenues; provided, however, that Operating Expenses shall exclude or have deducted from them, as the case may be:

1. executives' salaries;
2. expenditures for capital improvements or capital equipment, other than those properly included in Amortized Expenses;
3. amounts received by Landlord through insurance proceeds, condemnation awards, warranties and service contracts, or otherwise, to the extent they are compensation for sums otherwise included in Operating Expenses hereunder;
4. amounts paid to an affiliate of Landlord which are in excess of the amounts which would have been paid in the absence of such relationship in connection with arms-length transactions with unrelated third-parties;

Expenses;

5. depreciation, except as the same may be properly included in Amortized

6. brokerage commissions paid for leasing of space in the Building;

7. Taxes, which for purposes of this Article 4 shall mean the real estate taxes and assessments and special assessments imposed upon the Building and the Land and payable by Landlord, provided that, if at any time during the Term of this Lease the methods of taxation prevailing at the commencement of the Term hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed (i) a tax, assessment, levy, imposition or charge wholly or partially as capital levy or otherwise on the Rents received therefrom, or (ii) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon the Demised Premises and imposed upon Landlord, or (iii) a license fee measured by the Rents payable by Tenant to Landlord including, but not limited to a commercial rent or occupancy tax, then all such taxes, assessments, levies, impositions or charges, or the part thereof so measured or based, shall be deemed to be included within the term Taxes for the purposes hereof;

8. advertising and promotional expenditures;

9. costs incurred in performing work or furnishing services for any tenant (including Tenant), at such tenant's expense, or if at Landlord's expense, to the extent that such work or service is in excess of any work or service that Landlord is obligated to furnish to Tenant at Landlord's expense pursuant to the terms of this lease or is otherwise furnishing to Tenant;

10. refinancing costs, rents payable under any superior lease, mortgage interest and mortgage amortization payments, and any other general overhead and general administrative expenses not related to the operation of the Property;

11. legal fees incurred in connection with disputes with tenants or occupants of the Building and any other legal and auditing fees, other than legal and auditing fees reasonably incurred in connection with the maintenance and operation of the Building or in connection with the preparation of statements required pursuant to additional rent or lease escalation provisions;

12. repair costs resulting from the gross negligence of Landlord or other tenants or occupants of the Building;

13. costs incurred by Landlord that result from Landlord's breach of this Lease or any other lease in the Building or of any law; and

14. Utilities, as defined in Article 15.

G. If during all or part of any Escalation Year, Landlord shall not furnish any particular item(s) of work or service (the cost of which would otherwise constitute an Operating Expense that are customarily furnished to all part of the Building and that vary with the occupancy of the Building) to portions of the Building due to the fact that such portions are not

occupied or leased or for any other reason, then, for the purposes of computing Operating Expenses, Landlord may determine that the amount of such item for such period shall be deemed to be increased by an amount equal to the additional costs and expenses, if any, which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such item of work or service to such portion of the Building or to such tenant. Notwithstanding anything to the contrary contained in this Lease, Landlord shall furnish to Tenant reasonably sufficient back-up documentation to support all payments required under this Lease other than those payments for Fixed Rent.

4.02 A. Tenant shall pay as additional rent for each Escalation Year an amount ("**Tenant's Operating Payment**") equal to Tenant's Proportionate Share of the amount by which Operating Expenses for such Escalation Year exceeds the Base Operating Factor.

B. Landlord shall furnish to Tenant, with respect to each Escalation Year, a written statement setting forth Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year. The statement furnished under this Section 4.02 is hereinafter referred to as an "**Expense Statement**". Tenant shall pay to Landlord on the first day of each month during such Escalation Year an amount equal to one twelfth (1/12) of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, such estimate not to exceed one hundred five (105%) percent of Tenant's Operating Payment for the previous Escalation Year. If, however, Landlord shall furnish any such estimate for an Escalation Year subsequent to the commencement thereof, then (i) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Article in respect of the last month of the preceding Escalation Year; (ii) Tenant shall, within thirty (30) days after receipt by Tenant of such estimate, pay to Landlord the amount of any underpayment of Tenant's Operating Payment with respect to the then current Escalation Year calculated to the end of the month in which such estimate is furnished, or, in the event of an overpayment, Landlord shall either pay to Tenant or, at Landlord's election, credit the amount against subsequent payments under this Article, the amount of Tenant's overpayment; and (iii) Tenant shall pay to Landlord an amount equal to one twelfth (1/12) of Tenant's Operating Payment shown on such estimate on the first day of the month following the month in which such estimate is furnished to Tenant, and monthly thereafter throughout the remainder of such Escalation Year unless and until Landlord shall furnish to Tenant a revised statement of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, which Landlord may do at any time or from time to time and in such case, Tenant's Operating Payment for such Escalation Year shall be adjusted and paid or refunded, as the case may be, substantially in the same manner as provided in the preceding clause.

C. Within sixty (60) days after the end of each Escalation Year Landlord shall furnish to Tenant an Expense Statement for such Escalation Year. Each such year end Expense Statement shall be accompanied by a computation of Operating Expenses for the Building from which Landlord shall make the computation of Operating Expenses hereunder. In making its computation of Operating Expenses, Landlord may rely on Landlord's reasonable estimates and allocations when necessary because actual amounts are not reasonably available to Landlord. If the Expense Statement shall show that the sums paid by Tenant under the Article exceeded Tenant's Operating Payment required to be paid by Tenant for such Escalation Year,

Landlord shall either promptly refund to Tenant the amount of such excess or credit the amount of such excess against the next subsequent payments of any amount due from Tenant to Landlord under this Lease; and if the Expense Statement for such Escalation Year shall show that the sums so paid by Tenant were less than Tenant's Operating Payment paid by Tenant for such Escalation Year, Tenant shall pay the amount of such deficiency within thirty (30) days after receipt by Tenant of such year end Expense Statement.

D. If an Escalation Year begins prior to the Commencement Date or ends after the Expiration Date or sooner termination of this lease, Tenant's Operating Payment with respect thereto shall be apportioned in the ratio of the number of days in such Escalation Year occurring within the Term to the total number of days in such Escalation Year.

4.03 Landlord's failure during the lease Term to prepare and deliver any of the tax bills, statements, notice or bills set forth in this Article 4, or Landlord's failure to make a demand, shall not in any way cause Landlord to forfeit or surrender its rights to collect any of the foregoing items of additional rent which may have become due during the Term of this Lease, except to the extent that Tenant may be actually prejudiced by such failure. Tenant's liability for the amounts due under this Article 4 shall survive the expiration of the Term or any other termination of this Lease.

4.04 If all or any part of the fixed rent or additional rent payable hereunder shall at any time become uncollectible, reduced or required to be refunded by virtue of any laws and/or requirements of public authorities (including, without limitation, rent control or stabilization laws) then for the period prescribed thereby Tenant shall pay to Landlord the maximum amounts of fixed rent and additional rent permitted pursuant thereto. Upon the expiration of the applicable period of time during which such amounts shall be uncollectible, reduced or refunded, Tenant shall pay to Landlord as additional rent, within thirty (30) days after written demand, all such uncollected, reduced or refunded amounts that would have been payable for the period absent such laws and/or requirements of public authorities; provided that the retroactive collection thereof shall then be lawful.

ARTICLE 5

Security Deposit

5.01 Tenant has deposited with Landlord the sum of \$11,625.00 in the form of cash or a letter of credit ("**Letter of Credit**") pursuant to the requirements set forth in Section 5.02 as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. Landlord shall assign such Letter of Credit or cash to the Authority, and the Authority agrees to hold the said Letter of Credit or cash, as the case may be, for the entire Term hereof, subject, however, to the terms of this Article 5 with respect to the application of the proceeds thereof in the event of Tenant's default hereunder. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent and Additional Rent, the Authority may notify the Issuing Bank (as defined herein), if a Letter of Credit is provided and thereupon receive such portion of the proceeds of the said Letter of Credit or cash, as the case may be, and use, apply or retain the whole or any part of such proceeds, as the case may be, to the extent required for the payment of any Rent and Additional Rent or any other sum as to which Tenant is in default or for any sum

which the Authority may reasonably expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord or the Authority. In the event that the Authority applies or retains any portion or all of the proceeds of such Letter of Credit or cash, as the case may be, pursuant to this Section 5.01, then Tenant shall forthwith provide a replacement Letter of Credit complying with the terms of this Article 5 or cash, in either case, equal to the portion of the Security Deposit applied. The Letter of Credit or cash security, less any monies applied pursuant to this Section 5.01, as the case may be, shall be returned to Tenant within fifteen (15) days after Expiration Date, or earlier termination of this Lease unless applied in accordance with the terms of this Lease.

5.02 The Letter of Credit shall be a clean, irrevocable and unconditional Letter of Credit issued by and drawn upon any commercial bank (hereinafter referred to as the "Issuing Bank") with offices for banking purposes in the City of New York and which is a member of the New York Clearing House Association and having a net worth of not less than Five Hundred Million and 00/100 (\$500,000,000.00) Dollars, which Letter of Credit shall have an initial term of not less than one year, be in form and content reasonably satisfactory to Landlord, and be for the account of the Authority. The Letter of Credit shall provide that it shall be deemed automatically renewed, without amendment, for consecutive periods of one (1) year each thereafter during the Term of this Lease (with a final expiration date of no earlier than 30 days after the Expiration Date), unless Issuing Bank sends written notice (hereinafter referred to as the "Non-Renewal Notice") to the Authority by US Express Mail, return receipt requested, not less than thirty (30) days next preceding the then expiration date of the Letter of Credit that it elects not to have such Letter of Credit renewed. Additionally, the Letter of Credit shall provide that the Authority, within twenty (20) days of its receipt of the Non-Renewal Notice, shall have the right, exercisable by means of (a) a sight draft bearing reference to the Letter of Credit and (b) Landlord's or the Authority's certified statement of default or non-renewal (i) that Tenant has breached its obligations under this Lease, (ii) stating the amount to be received in accordance with Section 5.01 of this Lease, and (iii) stating that the applicable grace period has expired, to receive the monies represented by the Letter of Credit and hold such proceeds pursuant to the terms of Section 5.01 as a cash security (and Landlord or the Authority, as applicable, shall have no obligation to maintain such cash security in an interest bearing account) pending the replacement of such Letter of Credit or other application of such cash security or proceeds pursuant to the terms of this Lease. The sight draft and certified statement shall each be executed by an authorized representative of the Authority.

5.03 In the event of a sale of the Land and the Building or a leasing of the Building, Landlord shall either (a) return the Letter of Credit or cash, as the case may be, deposited hereunder to Tenant or (b) transfer the Letter of Credit or cash, as the case may be, deposited hereunder to the vendee or lessee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Letter of Credit or cash, as the case may be, provided that in the case of a transfer, such transferee has acknowledged receipt of such Letter of Credit or cash and has assumed Landlord's obligations hereunder. In the event of such a transfer, Tenant agrees to look solely to the new Landlord for the return of said Letter of Credit or cash, as the case may be. It is agreed that the provisions hereof shall apply to every transfer or assignment made of said Letter of Credit or cash, as the case may be, to a new Landlord.

5.04 Tenant covenants that it will not assign or encumber, or attempt to assign or encumber, the Letter of Credit or cash, as the case may be, deposited hereunder as security, or any proceeds thereof, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance.

5.05 In the event that at any time during the Term of this Lease Landlord reasonably determines (a) that the net worth of the Issuing Bank shall be less than the minimum amount specified in Section 5.02, or (b) that circumstances have occurred indicating that the Issuing Bank may be incapable of, unable to, or prohibited from honoring the then existing Letter of Credit (hereinafter referred to as the "Existing L/C") in accordance with the terms thereof, then, upon the happening of either of the foregoing, Landlord may send written notice to Tenant (hereinafter referred to as the "Replacement Notice") requiring Tenant within ten (10) days to replace the Existing L/C with a new letter of credit (hereinafter referred to as the "Replacement L/C") from an Issuing Bank meeting the qualifications described in Section 5.02. Upon receipt of a Replacement L/C meeting the qualifications of Section 5.02, Landlord shall forthwith return the Existing L/C to Tenant. In the event that a Replacement L/C meeting the qualifications of Section 5.02 is not received by Landlord within the time specified, the Existing L/C may be presented for payment by Landlord in accordance with the terms and conditions of Section 5.02 and the proceeds thereof shall be held by Landlord as cash security in accordance with Section 5.01 subject, however, to Tenant's right, at any time thereafter if no default then exists, to replace such cash security with a new letter of credit meeting the qualifications of Section 5.02.

ARTICLE 6

Subordination, Notice to Mortgagees

6.01 This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate in all respects to all mortgages existing on the date of this Lease which affect the Land and/or the Building, whether or not such mortgages shall also cover other lands and/or buildings, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such mortgages and spreaders and consolidations of such mortgages. This Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute and deliver any instrument that Landlord or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination, provided that no such instrument shall increase Tenant's obligations or otherwise materially alter the terms of this Lease. The mortgages to which this Lease is subject and subordinate are hereinafter sometimes referred to as "Superior Mortgages" and the mortgagee of a Superior Mortgage or its successor in interest at the time referred to is sometimes hereinafter called a "Mortgagee".

6.02 In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (i) until it has given written notice of such act or omission to the Mortgagee of each Superior Mortgage whose name and address shall previously have been furnished to Tenant by notice in writing, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such

Mortgagee within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Mortgagee shall have become entitled under such Superior Mortgage, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Mortgagee shall promptly give Tenant written notice of intention to, thereafter promptly commence and continue to remedy such act or omission.

6.03 If the Mortgagee of a Superior Mortgage or any other person or entity shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then, subject to the rights of the Authority under a Superior Mortgage, such party so succeeding to Landlord's rights (herein sometimes referred to as "Successor Landlord") shall enter into a written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease, and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment, and provided the Tenant is not in default beyond applicable cure periods, this Lease shall continue in full force and effect as, or as if it were, a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment except that the Successor Landlord shall not:

(a) be liable for any previous act or omission of Landlord or any prior landlord or consequential damages arising therefrom under this Lease;

(b) be subject to any offset, not expressly provided for in this Lease, which shall have theretofore accrued to Tenant against Landlord or any prior landlord;

(c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Fixed Rent not expressly provided for in this Lease or received by or credited to such Successor Landlord, unless such modification or prepayment shall have been expressly approved in writing by the Mortgagee of the Superior Mortgage through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease; or

(d) be liable for refund of all or any part of any security deposit unless such security deposit shall have been actually received by such Successor Landlord.

ARTICLE 7 Quiet Enjoyment

7.01 So long as this Lease is in full force and effect and Tenant is not in default hereunder after notice and expiration of the applicable cure periods, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises subject, nevertheless, to the obligations of this Lease and, as provided in Article 6, to the Superior Leases and the Superior Mortgages.

7.02 Without in any way limiting the foregoing, in the event that Landlord moves all or substantially all of its operations out of the Building during the Term of this Lease,

Tenant shall have the right to continue to occupy the Demised Premises under this Lease and on the same basis, including substantially similar costs, as would exist had Landlord not so moved its operations out of the Building. In such instance, Landlord is and shall continue to be legally responsible for the Building and its obligations hereunder, including, without limitation,

(a) the same services that are presently provided including, without limitation, security, heat, hot water, power, and, as required under this Lease, maintenance and repair of the Building and Base Building Systems;

(b) staff at and with respect to the Building as required to maintain the current standard of operations, and not Landlord's business therein, and including an individual familiar with the operations and services in the Building to be the primary contact with the Tenant with respect to such operations and services;

(c) (c) maintaining insurance with respect to the Building in accordance with Article 10.

ARTICLE 8

Assignment and Subletting

8.01 Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage or encumber this agreement, nor underlet, nor suffer, or permit the Demised Premises or any part thereof to be used or occupied by others, without the prior written consent of Landlord in each instance which consent may be withheld at Landlord's sole discretion. If this Lease be assigned, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect Rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved, but no assignment, subletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or subletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance. Notwithstanding the foregoing, Tenant may, without Landlord's consent, sublease the Demised Premises or any part(s) thereof or assign this Lease to any corporation, partnership, or other entity controlling, controlled by, or under common control with Tenant; provided, however, (i) Landlord is provided with written notification of any such assignment or sublet, along with assignment or sublet documentation reasonably acceptable to Landlord, (ii) any such assignment or sublet shall not relieve Tenant's responsibilities under the terms of the Lease, and (iii) such assignment or sublet shall not be in violation of the Tax Regulatory Agreement.

ARTICLE 9

Compliance with Laws and Requirements of Public Authorities

9.01 Tenant shall promptly, but in any event within three (3) days of receipt thereof, provide Landlord with a copy of any notice it receives of the violation of any law or requirement of any local, State, or Federal public authority with respect to the Demised Premises, and at Tenant's sole cost and expense shall comply with all laws and requirements of all such public authorities which shall, with respect to the Demised Premises or the use and occupation thereof, impose any violation, order or duty on Landlord or Tenant (including the abatement of any nuisance), arising from (i) Tenant's particular use or manner of use of the Demised Premises including, but not limited to, proper disposal of medical waste (ii) the particular manner of conduct of Tenant's business or operation of its installations, equipment or other property therein, (iii) any cause or condition created by Tenant's Work or Tenant's Changes (as defined herein), other than by Landlord's performance of any work for or on behalf of Tenant, or (iv) breach of any of Tenant's obligations hereunder. However, Tenant shall not be so required to make any structural or other substantial change in the Demised Premises unless the requirement arises from a cause or condition referred to in clause (i), (ii), (iii) or (iv) above. Furthermore, Tenant need not comply with any such law or requirement of public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises, in accordance with Section 9.02.

9.02 Tenant may, at its sole cost and expense (and if necessary, in the name of but without expense to Landlord) contest, by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the Demised Premises, of any law or requirement of public authority, and Landlord shall reasonably cooperate with Tenant in such proceedings, provided that:

(a) Landlord shall not be subject to criminal penalty or to prosecution for a crime nor shall the Demised Premises or any part thereof be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest;

(b) Tenant shall defend, indemnify and hold harmless Landlord against all liability, loss or damage which Landlord shall suffer by reason of such noncompliance or contest, including reasonable attorney's fees and other expenses reasonably incurred by Landlord;

(c) In no event shall such non-compliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage, or if such Superior Lease and/or Superior Mortgage shall permit such non-compliance or contest on condition of the taking of action or furnishing of security by Landlord, such action shall be taken and such security shall be furnished at the sole cost and expense of Tenant; and

(d) Tenant shall keep Landlord advised in writing as to the status of such proceedings.

Without limiting the application thereto of subsection (a) above, Landlord shall be deemed subject to prosecution for a crime within the meaning thereof if Landlord, or any officer of

Landlord individually, is charged with a crime of any kind or degree whatever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or such officer (as the case may be) is required to plead or answer thereto.

9.03 Neither Landlord nor Tenant shall install, or permit to be installed, in the Building friable asbestos or any substance containing asbestos or any other substance which is deemed hazardous by any federal, state or local regulations respecting such material.

ARTICLE 10

Insurance

10.01 Tenant shall not violate, or permit the violation of, any condition imposed by the standard fire insurance policy then issued for office buildings in the Borough of Manhattan, City of New York, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Demised Premises which would subject Landlord to any liability or responsibility for personal injury or death or property damage, or which would increase the fire or other casualty insurance rate on the Building or the property therein over the rate which would otherwise then be in effect (unless Tenant pays the resulting premium as provided in Section 10.03) or which would result in insurance companies of good standing refusing to insure the Building or any of such property in amounts reasonably satisfactory to Landlord; provided, however, that in no event shall the mere use of the Demised Premises for customary and ordinary office purposes or for the use of the Demised Premises for the use contemplated herein constitute a breach by Tenant of the provisions of this Section 10.01.

10.02 Tenant covenants to provide to Landlord on or before the Effective Date and to keep in force during the Term hereof with respect to the Demised Premises the following insurance coverage:

(a) For the benefit of Landlord and Tenant commercial general policy of liability insurance protecting Landlord as additional insured and Tenant against any liability whatsoever occasioned by accident on or about the Demised Premises or any appurtenances thereto. Such policy is to be written by good and solvent insurance companies authorized to do business in the state of New York and rated "A" or better by A.M. Best Company, Inc. and the limits of liability thereunder shall not be less than the amount of Ten Million and 00/100 (\$10,000,000.00) Dollars combined single limit coverage on a per occurrence basis, and in the amount of Five Million and 00/100 (\$5,000,000.00) Dollars in respect of property damages, and such amounts and coverages shall be subject to change as Landlord may reasonably request. Such insurance may be carried under a blanket policy covering the Demised Premises and other locations of Tenant, if any or under an umbrella policy; and

(b) All-risk coverage in an amount adequate to cover the cost of replacement of all personal property, fixtures, furnishing and equipment, including Tenant's Work located in the Demised Premises, and shall include 12 months business interruption insurance, payable to Landlord to the extent of Rents due. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

(c) Builder's risk coverage in an amount as reasonably required by Landlord to be delivered to Landlord prior to the commencement of any Tenant's Changes or Tenant Work. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

Prior to the time such insurance is first required to be carried by Tenant and thereafter, at least thirty (30) days prior to the expiration of any such policies, Tenant agrees to deliver to Landlord either duplicate originals of the aforesaid policies or certificates evidencing such insurance, provided said certificate contains an endorsement that such insurance may not be modified or cancelled except upon thirty (30) days' notice to Landlord together with evidence of payment for the policy. Tenant's failure to provide and keep in force the aforementioned insurance shall be regarded as an immediate material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default.

10.03 Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each all-risk policy obtained by it and covering the Building (as to Landlord's policy only), the Demised Premises (or, with respect to Tenant's policy any Tenant's Changes, including Tenant's Work, constructed by Tenant), and the personal property, fixtures and equipment located therein or thereon, pursuant to which the respective insurance companies waive subrogation or permit the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Demised Premises in accordance with the terms of this Lease. If and to the extent that such waiver or permission can be obtained only upon payment of an additional charge then, except as provided in the following two paragraphs, the party benefiting from the waiver or permission shall pay such charge upon demand, or shall be deemed to have agreed that the party obtaining the insurance coverage in question shall be free of any further obligations under the provisions hereof relating to such waiver or permission.

In the event that Landlord shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, at Tenant's option Landlord shall cause Tenant to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Tenant as such as assured, Tenant shall pay such additional premium upon written demand or Landlord shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Tenant shall have been named as one of the assureds in any of Landlord's policies in accordance with the foregoing, Tenant shall endorse promptly to the order of Landlord, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Tenant hereby irrevocably waives any and all rights in and to such proceeds and payments.

In the event that Tenant shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, Tenant shall cause Landlord to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for

the inclusion of Landlord as such an assured, Landlord shall pay such additional premium upon demand or Tenant shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Landlord shall have been named as one of the assureds in any of Tenant's policies in accordance with the foregoing, Landlord shall endorse promptly to the order of Tenant, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Landlord hereby irrevocably waives any, and all rights in and to such proceeds and payments.

Subject to the foregoing provisions of this Section 10.03, and insofar as may be permitted by the terms of the insurance policies carried by it, each party hereby releases the other with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the Term of this Lease.

10.04 If, by reason of a failure of Tenant to comply with the provisions of Section 9.01 or Section 10.01, the rate of all-risk insurance on the Building or equipment or other property of Landlord shall be higher than it otherwise would be, Tenant shall reimburse Landlord, on written demand, for that part of the premiums for all-risk coverage paid by Landlord because of such failure on the part of Tenant.

10.05 If any dispute shall arise between Landlord and Tenant with respect to the incurrence or amount of any additional insurance premium referred to in Section 10.03, the dispute shall be determined by arbitration in accordance with Article 33.

10.06 Landlord shall carry all insurance as required by any mortgagee but it is expressly understood that any such insurance shall not cover any property of Tenant.

ARTICLE 11

Rules and Regulations

11.01 Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations of the Building (herein so called) and such reasonable changes therein (whether by modification, elimination or addition) as Landlord at any time or times hereafter may make and communicate in writing to Tenant, which do not unreasonably and adversely affect Tenant's rights and obligations hereunder or the conduct of Tenant's business in the Demised Premises, except as required by any governmental law, rule, regulation, ordinance or similar decree.

11.02 Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to Tenant to enforce the rules and regulations of the Building or the terms, covenants or conditions in any other lease, as against any other tenant, unless the violation of such other tenant interferes with Tenant's use and occupancy of the Demised Premises, in which case Landlord shall use commercially reasonable efforts (which efforts shall not include expenditure of funds or the institution of a civil suit) to enforce the rules and regulations and such terms, covenants and conditions against such other tenants, provided that

Landlord shall not be liable to Tenant for violation of the same by any other tenant or its employees, agents or visitors. However, Landlord shall not enforce any of the rules and regulations in such manner as to discriminate against Tenant or anyone claiming under or through Tenant.

ARTICLE 12
Tenant's Changes

12.01 Subject to the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, Tenant may from time to time during the Term of this Lease, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively referred to as the "changes" and, as applied to changes provided for in this Article, "Tenant's Changes") in and to the Demised Premises, excluding structural changes, as Tenant may reasonably consider necessary for the conduct of its business in the Demised Premises, on the following conditions:

(a) the outside appearance or the strength of the Building or of any of its structural parts shall not be affected;

(b) such changes shall not be implemented in any part of the Building outside of the Demised Premises;

(c) the proper functioning of any of the mechanical, electrical, sanitary and other service systems of the Building shall not be adversely affected or the usage of such systems by Tenant shall not be materially increased;

(d) in performing the work involved in making such changes, Tenant shall be bound by and observe all of the conditions and covenants contained in the following Sections of this Article; and

(e) before proceeding with any Tenant's Changes, other than decorative or non-structural interior changes costing less than \$50,000.00 in the aggregate (collectively, the "Minor Tenant Changes"), Tenant will advise Landlord in writing thereof and, shall submit to Landlord proof reasonably satisfactory to Landlord of the cost thereof, and shall further submit the names of all of the contractors or subcontractors who will be performing Tenant's Changes for Landlord's approval, not to be unreasonably withheld, which approval as to non-structural changes shall not be unreasonably withheld. Additionally, before proceeding with any Tenant's Changes, other than Minor Tenant Changes, Tenant shall (i) submit to Landlord, when plans and specifications would customarily be required in connection with the nature of the work proposed, detailed plans and specifications for the work to be done for Landlord's approval, not to be unreasonably withheld, which approval or disapproval (and the reasons therefor) shall be given by Landlord to Tenant within ten (10) business days of the submission of such plans and specifications to Landlord; (ii) upon written demand, pay to Landlord the reasonable out of pocket costs incurred by Landlord for the review of such plans and specifications by its third party architect, engineer and other consultants, and (iii) abide by Landlord's reasonable construction requirements then in effect for the Building, including without limitation, Landlord's construction rules and regulations, except that if there are any

conflicting provisions of this Lease and the construction rules and regulations, the provisions of this Lease shall prevail. Landlord may, as a condition of its approval of Tenant's plans, require Tenant to make revisions in and to the plans and specifications. If Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) in connection with Tenant's requested approval of any plans and specifications within ten (10) business days after Landlord's receipt thereof, then Tenant may deliver a second written notice to Landlord requesting Landlord's approval thereof. Thereafter, if Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) within ten (10) business days after Landlord's receipt of said second notice, then, as Tenant's sole remedy in connection therewith, and provided that said second notice shall bear the following legend typed in bold, capital letters at the top: **"IF LANDLORD SHALL FAIL TO RESPOND TO TENANT IN CONNECTION WITH THIS REQUEST FOR APPROVAL WITHIN TEN (10) BUSINESS DAYS, LANDLORD SHALL BE DEEMED TO HAVE CONSENTED THERETO,"** Landlord shall conclusively be deemed to have approved such plans and specifications for all purposes under this Lease.

12.02 Tenant, at its sole cost and expense, shall obtain all necessary governmental permits, inspections, and certificates for the commencement and prosecution of Tenant's Changes and for final approval thereof upon completion, and shall cause Tenant's Changes to be performed in compliance therewith and with all applicable laws and requirements of all applicable local, State, and Federal public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using new materials and equipment reasonably equivalent in quality and class to the installations in the Building. Landlord shall promptly cooperate with Tenant by executing any necessary applications or other documentation reasonably required to be executed by Landlord in connection with approved Tenant's Changes. Tenant's Changes shall be performed in such manner as not to unreasonably interfere with or delay and (unless Tenant shall indemnify Landlord therefor to the latter's reasonable satisfaction) as not to impose any additional expense upon Landlord in the maintenance or operation of the Building. Throughout the performance of Tenant's Changes, Tenant, at its expense, shall carry, or cause to be carried, workmen's compensation insurance in statutory limits and general liability insurance for any occurrence in or about the Building as set forth in Section 10.02 hereof, in which Landlord and its agents shall be named as parties insured, in such limits as Landlord may reasonably prescribe, with insurers reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of Tenant's Changes and, on request, at reasonable intervals thereafter during the continuance of Tenant's Changes. If any of Tenant's Changes shall involve the removal of any fixtures, equipment or other property in the Demised Premises which are not Tenant's Property (as defined in Article 13), such new fixtures, equipment or other property shall be promptly replaced, at Tenant's expense, with fixtures, equipment or other property (as the case may be) of like utility and at least equal value unless Landlord shall otherwise expressly consent in writing and Tenant shall, upon Landlord's request, store and preserve, at Tenant's sole cost and expense, any such fixtures, equipment or property so removed and shall return same to Landlord upon the expiration or sooner termination of this Lease. All electrical and plumbing work in connection with Tenant's Changes shall be performed by contractors or subcontractors licensed therefor by all governmental agencies having or asserting jurisdiction and reasonably acceptable to Landlord.

12.03 Tenant, at its sole cost and expense, and with diligence and dispatch, shall procure the cancellation or discharge of all notices of violation and/or mechanic's liens arising from or otherwise connected with Tenant's Changes or Tenant Work which shall be issued by the Department of Buildings or any other public or quasi-public authority having or asserting jurisdiction. Tenant shall defend, indemnify and save harmless Landlord against any and all mechanic's and other liens filed in connection with Tenant's Changes or Tenant Work, including the liens of any security interest in, conditional sales of, or chattel mortgages upon, any materials, fixtures or articles so installed in and constituting part of the Demised Premises and against all costs, expense and liabilities incurred in connection with any such lien, security interest, conditional sale or chattel mortgage or any action or proceeding brought thereon. Tenant, at its expense, shall procure the satisfaction or discharge of all such liens within sixty (60) days after Landlord makes written demand therefor. However, nothing herein contained shall prevent Tenant from contesting, in good faith and at its own expense, any such notice of violation, provided that Tenant shall comply with the provisions of Section 9.02.

12.04 Tenant agrees that the exercise of its rights pursuant to the provisions of this Article 12 or any other provision of this Lease shall not be done in a manner which would create any work stoppage, picketing, labor disruption or dispute or violate Landlord's union contracts affecting the Land and/or Building nor unreasonably interfere with the business of Landlord or any Tenant or occupant of the Building. In the event of the occurrence of any condition described above arising from the exercise by Tenant of its right pursuant to the provisions of this Article 12 or any other provision of this Lease, Tenant shall, immediately upon notice from Landlord, cease the manner of exercise of such right giving rise to such condition. In the event Tenant fails to cease such manner of exercise of its rights as aforesaid, Landlord, in addition to any rights available to it under this Lease and pursuant to law, shall have the right to injunction without notice. With respect to Tenant's Changes, Tenant shall make all arrangements for the use of the freight elevators servicing the Demised Premises, including, without limitation, any reasonable expenses incurred as a result of any Fire Watch necessitated by the Tenant's Changes and Landlord shall cooperate with Tenant as required in connection with all such arrangements.

ARTICLE 13 Tenant's Property

13.01 Except as provided in Section 13.02, all fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term of this Lease, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises (unless Landlord gave Tenant notice prior to the time of installation that Tenant shall be required to remove same upon the expiration of the Term, in which case Tenant shall so remove such items in accordance herewith), shall be deemed the property of Landlord and shall not be removed by Tenant, except as hereinafter in this Article expressly provided.

13.02 Notwithstanding any other provision of this Lease, all movable partitions (and attached components, i.e. workstations), lighting fixtures, special cabinet work, other business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Demised Premises, which are installed in

the Demised Premises by or for the account of Tenant, and can be removed without permanent structural damage to the Building, and all equipment, furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Demised Premises, (all of which are sometimes referred to as "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by it at any time during the Term of this Lease; provided that if any of Tenant's Property is removed, Tenant or any party or person entitled to remove same shall repair or pay the cost of repairing any material damage to the Demised Premises or to the Building resulting from such removal. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant or which has replaced such items originally provided by Landlord at Landlord's expense shall not be deemed to have been installed by or for the account of Tenant, without expense to Landlord, and shall not be considered Tenant's Property.

13.03 At or before the Expiration Date, or the date of any earlier termination of this Lease, or as promptly as practicable after such an earlier termination date, Tenant at its expense, shall remove from the Demised Premises all of Tenant's Property except such items thereof as Tenant shall have expressly agreed in writing with Landlord were to remain and to become the property of Landlord, and shall fully repair any damage to the Demised Premises or the Building resulting from such removal. Tenant's obligation herein shall survive the termination of the Lease.

13.04 Any other items of Tenant's Property (except money, securities and other like valuables) which shall remain in the Demised Premises after the Expiration Date or the date of any earlier termination of this Lease may, at the option of the Landlord, be deemed to have been abandoned, and in such case either may be retained by Landlord as its property or may be disposed of, without accountability, in such manner as Landlord may see fit and, any expense incurred by Landlord in connection with the removal of any such Tenant's Property from the Demised Premises shall be paid by Tenant within five (5) days following Landlord's written demand thereof.

ARTICLE 14 **Repairs and Maintenance**

14.01 Tenant shall take good care of the Demised Premises, subject to ordinary wear and tear and casualty not caused by Tenant. Tenant, at its sole cost and expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural (provided, Landlord at its sole election may perform such structural or exterior work at Tenant's sole cost and expense) or otherwise, in and about the Demised Premises and the Building, as shall be required by reason of (i) the performance or existence of Tenant's Work or Tenant's Changes, (ii) the installation, use or operation of Tenant's Property in the Demised Premises, (iii) the moving of Tenant's Property in or out of the Building, or (iv) the misuse or neglect of Tenant or any of its employees, agents or contractors.

14.02 Landlord, at its expense, shall keep and maintain the Building and its fixtures, appurtenances, exterior (including, but not limited to, sidewalk maintenance and snow removal), systems and facilities serving the Demised Premises, in good working order, condition and repair and shall make all repairs, structural and otherwise, interior and exterior, as and when

needed in or about the Demised Premises, except for those repairs for which Tenant is responsible pursuant to any other provision of this Lease.

14.03 Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making of any repairs or changes which Landlord is required by this Lease or law to make in or to any portion of the Building or the Demised Premises, or in or to the fixtures, equipment or appurtenances of the Building or the Demised Premises, provided that Landlord shall use reasonable diligence with respect thereto and shall perform such work, except in case of emergency, at times reasonably convenient to Tenant and otherwise in such manner as will, not materially interfere with Tenant's use of the Demised Premises; provided, however, the foregoing shall not require Landlord to perform any such repairs or changes on an overtime or premium time basis.

ARTICLE 15

Utilities

15.01 For purposes of this Article "Tenant's Cost" shall mean \$19,762.50 per year, subject to an escalation equal to any increase in the actual cost of utilities. Utilities, as used in this Article 15 shall be deemed to mean (i) electricity, (ii) water/sewer, (iii) heating and air conditioning, and (iv) natural gas costs.

15.02 Tenant shall pay the amount of Tenant's Cost set forth thereon to Landlord as Additional Rent in equal monthly installments.

15.03 Landlord hereby confirms to Tenant that the Building is equipped with risers, feeders and wiring so as to supply electrical service to the Demised Premises.

15.04 With respect to all of the provisions of this Article 15:

(a) Landlord shall not be liable or responsible to Tenant for any loss or damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements, unless caused by the gross negligence of Landlord or its agents, employees, or contractors.

(b) Tenant covenants and agrees not to connect any additional electrical equipment of any type to the Building electric distribution system without Landlord's prior written consent, which consent shall not unreasonably be withheld or delayed. In no event shall Tenant use or install any additional fixtures, equipment or machines the use which in conjunction with other approved fixtures, equipment and machines in the Demised Premises would result in an overload of the electrical circuits servicing the Demised Premises.

(c) At all times Tenant's use of electric current shall never exceed the capacity of the then existing feeders to the Building or the risers or wiring installation. Tenant shall furnish, install and replace, as required, all lighting tubes, lamps, bulbs and ballasts required in the Demised Premises, at Tenant's sole cost and expense. All lighting tubes, lamps, bulbs and ballasts so installed shall become Landlord's property upon the expiration or sooner termination of the Lease.

(d) Tenant expressly agrees that all installations, alterations and additions of and to the electrical fixtures, appliances, or equipment within the Demised Premises shall be subject to Landlord's prior written approval, and, if such approval shall be given, rigid conduit only shall be permitted. If, in connection with any request for such approval, Landlord shall, in its reasonable judgment, determine that the risers of the Building servicing the Demised Premises shall be insufficient to supply Tenant's electrical requirements with respect thereto, Landlord shall, at the sole cost and expense of Tenant, install any additional riser(s) or feeder(s) that Landlord shall reasonably deem necessary with respect thereto, provided, however that, if Landlord shall determine, in its sole judgment, that the same will cause permanent damage or injury to the Building or to the Demised Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expense, or interfere with, or disturb the other tenants or occupants of the Building, then Landlord shall not be obligated to make such installation, and Tenant shall not make the installation, alteration, or addition with respect to which Tenant requested Landlord's consent. In addition to the installation of such riser(s) or feeder(s), Landlord shall also have the right, at the sole cost and expense of Tenant, to install other equipment necessary and proper in connection therewith, subject to the aforesaid terms and conditions. All of the aforesaid costs and expenses are chargeable and collectible as Additional Rent, and shall be paid by Tenant to Landlord within thirty (30) days after rendition of any bill to Tenant therefor. Landlord represents that current watts of electrical energy per usable square foot of the Demised Premises shall remain, throughout the term, as exists on the date of this Lease, unless altered at Tenant's sole cost and expense as per the provisions contained in this Article 15. Landlord shall not make any of the foregoing installations at Tenant's cost without prior written notice to Tenant unless such installations are necessary for the safety of Building and the occupants thereof, as determined by Landlord in its sole discretion.

(e) Landlord shall cooperate with Tenant as required to provide that Tenant's access to Utilities shall at all times comply with regulatory requirements of Joint Commission on Accreditation of Healthcare Organizations or any other applicable authority with jurisdiction over Tenant's operations within the Demised Premises.

ARTICLE 16

Heat, Ventilation and Air-Conditioning

16.01 Landlord, at Landlord's expense, shall maintain and operate the heating, ventilating and air-conditioning systems (hereinafter referred to as the "systems") and, subject to energy conservation requirements of any applicable local, State, or Federal public authorities, shall furnish heat, ventilating and air-conditioning in the Demised Premises through the currently existing systems as may be required for reasonably comfortable occupancy of the Demised Premises from 6:00 AM until 12:00 AM (midnight) seven days per week during the Term hereof. If Tenant shall require heating, ventilating or air-conditioning service at any other time, Landlord shall furnish such service upon reasonable advance notice from Tenant, and Tenant shall pay on written demand Landlord's actual or reasonably estimated cost therefor.

16.02 Use of the Demised Premises, or any part thereof, in a manner exceeding the design conditions (including occupancy and connected electrical load) specified for the systems or rearrangement of partitioning which interferes with normal operation of the heat, ventilation and air-conditioning in the Demised Premises, may require changes in the heat,

ventilation and air-conditioning system servicing the Demised Premises. Such changes, so occasioned, shall be made by Tenant, at its expense, as Tenant's Changes pursuant to Article 12. Tenant agrees at all times to cooperate fully with Landlord and to abide by all reasonable regulations and requirements which Landlord may prescribe for the proper functioning and protection of the heat, air-conditioning and ventilating system.

ARTICLE 17
Landlord's Other Services

17.01 Landlord, at its expense, shall provide elevator service, passenger and freight, by elevators serving the floor(s) on which the Demised Premises are situated. Freight elevators shall be available after-hours, subject to Tenant's payment of expenses reasonably and customarily charged by Landlord in connection with the use thereof.

17.02 Tenant, at its expense, shall cause the Demised Premises to be cleaned in accordance with the then current Building standard cleaning specifications and applicable law and related regulations. The cleaning specifications may be revised by Landlord in its reasonable discretion from time to time, and Landlord shall thereafter promptly provide notice of such revision(s) to Tenant.

17.03 Landlord, at its expense, and on Tenant's request, shall maintain the original listings on the Building directory of the names of Tenant, and the names of any of their officers and employees to the extent space is available for such listings.

17.04 Tenant, at its sole cost and expense, shall be permitted to affix signage to the exterior of the Building, the entrance to the Demised Premises and such locations within the Building as are reasonably required to provide direction to the location of the Demised Premises. The placement, design and construction of any such signage shall be subject to the consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. All such signage shall, in all ways, comply with law and shall be consistent with the style and size of other signage at the Building.

17.05 Landlord shall furnish to the Demised Premises adequate hot and cold water for ordinary usage for drinking, lavatory, pantry and normal cleaning purposes at no charge to Tenant; provided, Landlord makes no representations nor in any way warrants the quality of such water for such purposes.

17.06 Landlord, throughout the Term, shall provide security services and shall be responsible for security costs for the Building at the level, hours and cost of such security in place as of the date of this Lease. Any additional security, either engaged by Landlord at Tenant's request, or engaged by Tenant directly, shall be at the sole cost and expense of Tenant.

17.07 Landlord reserves the right, without any liability to Tenant, except as otherwise expressly provided in this Lease, to stop service of any of the heating, ventilating, air conditioning, electric, sanitary, elevator or other Building systems serving the Demised Premises, or the rendition of any of the other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of accidents, emergencies, strikes or the making of repairs or changes which Landlord is required by this Lease or by law to make or in good faith

deems necessary, by reason of an inability to secure proper supplies of fuel, steam, water, electricity, labor or supplies, or by reason of any other cause beyond Landlord's reasonable control. Landlord shall promptly commence and diligently and in a workmanlike manner proceed to repair and rebuild any such systems and restore any such services. Notwithstanding the foregoing, to the extent that by reason of any of the foregoing circumstances Tenant is not reasonably able to occupy the Demised Premises or any portion thereof for conduct of its business, the Fixed Rent and Tenant's Cost shall be abated with respect to that portion of the Demised Premises that is so affected.

ARTICLE 18

Access Change in Building Facilities, Name

18.01 All except the inside surfaces of all walls, windows and doors bounding the Demised Premises (including exterior Building walls, core corridor walls and doors and any core corridor entrance) and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building facilities, and the use thereof, as well as access thereto through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are reserved to Landlord. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of the rights reserved to Landlord in this Section 18.01; provided Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor) .

18.02 Tenant shall permit Landlord to install, use, replace and maintain pipes, ducts and conduits within the demising walls, bearing columns and ceilings of the Demised Premises. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of Landlord's rights under this Section 18.02; provided, however, Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor). Except in the case of an emergency, Landlord shall give Tenant not less than twenty four (24) hours notice of any such actions.

18.03 Landlord or Landlord's agent shall have the right, upon advance request (except in emergency under clause (ii) hereof) to enter and/or pass through the Demised Premises or any part thereof, at reasonable times during reasonable hours, (i) to examine the Demised Premises and to show them to Mortgagees of Superior Mortgages, or prospective purchasers, mortgagees or lessees of the Building as an entirety, and (ii) for the purpose of making such repairs or changes in or to the Demised Premises or in or to its facilities, as may be provided for by this Lease or as may be mutually agreed upon by the parties or as Landlord may be required to make by law or in order to repair and maintain said structure or its fixtures or facilities. Subject to the provisions of this Article 18, Landlord shall be allowed to take all materials into and upon the Demised Premises that are required for such repairs, changes, repainting or maintenance, without liability to Tenant, provided that such materials shall not be stored in such a way as to unreasonably interfere with Tenant's use of the Demised Premises. Tenant's Landlord shall also have the right to enter on and/or pass through the Demised Premises, or any part thereof, at such times as such entry shall be required by circumstances of

emergency affecting the Demised Premises or the Building with such advance notice as is practicable under the circumstances.

18.04 Landlord reserves the right, at any time without incurring any liability to Tenant therefor, to make such changes in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators and stairways thereof, as it may deem necessary or desirable, provided such changes do not (i) unreasonably interfere with the conduct of Tenant's business in the Demised Premises, (ii) materially reduce the square foot area of the Demised Premises, (iii) materially restrict Tenant's access to the Demised Premises or (iv) materially increase any of Tenant's obligations or reduce any of Tenant's rights pursuant to this Lease.

18.05 Landlord may adopt any name for the Building. Landlord reserves the right to change the name or address of the Building.

18.06 For the purposes of Article 18, the term "Landlord" shall include Lessors and Mortgagees.

18.07 Notwithstanding anything to the contrary contained in this Lease, commencing July 1, 2010 at 6 AM and expiring on July 5, 2010 at 5 PM Tenant grants to Landlord an irrevocable license to enter the Demised Premises for the purpose of removing personal property that the Landlord is permitted to remove, which shall not include any personal property purchased by or transferred to Tenant, and for reasons relating to the closure of Landlord's operations in the Building. Landlord shall make reasonable efforts not to unnecessarily interfere with Tenant's business in the Demised Premises during the license period and Tenant shall make reasonable efforts not to unnecessarily interfere with Landlord's access to the Demised Premises for the reasons expressly stated in the section 18.07. Landlord agrees to defend, indemnify, protect and hold harmless Tenant, and its directors, officers, employees and agents from and against any and all claims, demands, losses, costs, damages, expenses and liabilities (including, without limitation, personal injury or property damage claims or mechanics' or other liens), including reasonable attorneys' fees and disbursements, caused by, resulting from, arising out of, or occurring in connection with the presence or acts or omissions of anyone in the Demised Premises at the request or instance of Landlord; provided, however, that such indemnity and hold harmless will exclude damages arising solely out of Tenant's gross negligence or willful misconduct. The indemnity and hold harmless provisions of this section shall survive the expiration or termination of this Lease.

ARTICLE 19

Notice of Accidents

19.01 Tenant shall give prompt written notice to Landlord, promptly after Tenant learns thereof, of (i) any accident in or about the Demised Premises for which Landlord might be liable, (ii) all fires in the Demised Premises, (iii) all damages to or defects in the Demised Premises, including the fixtures, equipment and appurtenances thereof, for the repair of which Landlord might be responsible, and (iv) all damage to or defects in any parts or appurtenances of the Building's sanitary, electrical, heating, ventilating, air-conditioning,

elevator and other systems located in or passing through the Demised Premises or any part thereof.

ARTICLE 20
Non-Liability and Indemnification

20.01 Neither Landlord nor any agent or employee of Landlord shall be liable to Tenant for any injury or damage to Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of, any property of Tenant or of any other person, irrespective of the cause of such injury, damage or loss, unless caused by or due to the willful misconduct or gross negligence of Landlord, its agents or employees.

20.02 Tenant shall indemnify and save harmless Landlord and its agents against and from (a) any and all claims (i) arising from (x) the conduct or management of the Demised Premises or of any business therein, (y) a breach by Tenant of this Lease or (z) any work or thing whatsoever done, or any condition created (other than by Landlord for Tenant's account) in or about the Demised Premises during the Term of this Lease or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Demised Premises, or (ii) arising from any negligent or intentionally wrongful act or omission of Tenant or any of its subtenants or licensees or its or their employees, agents or contractors, and (b) all costs, expenses and liabilities reasonably incurred in or in connection with each such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon written notice from Landlord, shall resist and defend such action or proceeding.

20.03 Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant hereunder shall not be affected, impaired or excused because Landlord is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of Unavoidable Delay (as defined in Section 21.03).

ARTICLE 21
Destruction or Damage

21.01 If the Building or the Demised Premises shall be partially or totally damaged or destroyed by fire or other cause, then, whether or not the damage or destruction shall have resulted from the fault or neglect of Tenant, or its employees, agents or visitors (and if this Lease shall not have been terminated as in this Article hereinafter provided), Landlord shall repair the damage and restore and rebuild the Building and/or the Demised Premises, at its expense, with reasonable dispatch after notice to it of the damage or destruction; provided, however, that Landlord shall not be required to repair or replace any of Tenant's Property nor to restore any Tenant's Work unless such damage or destruction shall have resulted from the gross negligence Landlord.

21.02 If the Building or the Demised Premises shall be partially damaged or partially destroyed by fire or other cause, the Rents payable hereunder shall be abated proportionally for the portions of Demised Premises that have been rendered untenable and for the period from the date of such damage or destruction to the date the damage shall be

repaired or restored. If the Demised Premises or a major part thereof shall be totally (which shall be deemed to include substantially totally) damaged or destroyed or rendered completely (which shall be deemed to include substantially completely) untenable or inaccessible on account of fire or other cause, the Rents shall completely abate as of the date of the damage or destruction and until Landlord shall repair, restore and rebuild the Building and the Demised Premises, provided, however, that should Tenant reoccupy a portion of the Demised Premises during the period the restoration work is taking place and prior to the date that the same are made completely tenantable, Rents allocable to such portion shall be payable by Tenant from the date of such occupancy.

21.03 If the Demised Premises shall be totally damaged or destroyed by fire or other cause, Landlord may terminate at its option this Lease by giving Tenant notice to such effect within the shorter of (1) one hundred eighty (180) days after the date of the casualty, or (ii) four (4) months from the date all insurance proceeds payable as a result of such casualty are obtained by Landlord. In case of any damage or destruction mentioned in this Article, Tenant may terminate this Lease, by written notice to Landlord, if Landlord has not completed the making of the required repairs and restored and rebuilt the Building and the Demised Premises within six (6) months from the date of such damage or destruction, or within such period after such date (not exceeding four months) as shall equal the aggregate period Landlord may have been delayed in doing so by Unavoidable Delay. "Unavoidable Delay" shall mean any strikes, labor troubles or accident, or by any cause whatsoever beyond Landlord's reasonable control, including legal requirements, governmental preemption in connection with a national emergency, shortages, or unavailability of labor, fuel, steam, water, electricity or materials, Tenant Delay, delays caused by other tenants or other occupants of the Building, acts of God, enemy action, civil commotion, fire or other casualty. Notwithstanding the foregoing, if the Demised Premises are rendered wholly or substantially untenable or inaccessible and, in the reasonable estimation of Landlord's architect and insurance adjustor, the repairs necessary to restore the Demised Premises to a tenantable condition cannot be completed within six (6) months from the date of such damage, then Tenant shall have the right upon written notice to Landlord to terminate this Lease within thirty (30) days after Tenant's receipt of Landlord's architect's and insurance adjustor's estimate (which estimate must be given to Tenant promptly after the occurrence of such casualty).

21.04 If the Demised Premises shall be substantially damaged during the last one (1) year of the Term so that, in Tenant's reasonable judgment, Tenant is not able to conduct its business within the Demised Premises, Landlord or Tenant may elect by notice, given within thirty (30) days after the occurrence of such damage, to terminate this Lease and if either party makes such election, the Term shall expire upon the thirtieth (30th) day after notice of such election is given by such party and Tenant shall vacate the Demised Premises and surrender the same to Landlord.

21.05 No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building pursuant to this Article; provided, however, that if Tenant shall be in possession of the Demised Premises or a portion thereof during any period during which repair or restoration activities are being performed pursuant to this Article,

Landlord shall use its reasonable efforts to not unreasonably interfere with the conduct of Tenant's business in the Demised Premises or portion thereof occupied by Tenant.

21.06 Notwithstanding any of the foregoing provisions of this Article, if Landlord or the Lessor of any Superior Lease or the Mortgagee of any Superior Mortgage shall be unable to collect all of the insurance proceeds (including rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other cause, by reason of the intentional misconduct or negligence on the part of Tenant or any of its employees, agents or contractors, then, without prejudice to any other remedies which may be available against Tenant, there shall be no abatement of Tenant's Rents.

21.07 Landlord will not carry insurance of any kind on Tenant's Property or Tenant's Work, and, except as required by the terms of this Lease or provided by law or by reason of its fault or its breach of any of its obligations hereunder, shall not be obligated to repair any damage thereto or replace the same.

21.08 The provisions of this Article shall be considered an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

ARTICLE 22

Eminent Domain

22.01 If the whole of the Building shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose, this Lease and the Term and estate hereby granted shall forthwith terminate as of the date of vesting of title in such taking (which date is hereinafter also referred to as the "date of the taking"), and the Rents shall be prorated and adjusted as of such date.

22.02 If only a part of the Building shall be so taken, this Lease shall be unaffected by such taking, except that Tenant may elect to terminate this Lease in the event of a partial taking, if the remaining area of the Demised Premises shall not be reasonably sufficient for Tenant to continue normal operation of its business, or if access to the Demised Premises shall be taken. Tenant shall give written notice of such election to Landlord not later than thirty (30) days after (i) notice of such taking is given by Landlord to Tenant, or (ii) the date of such taking, whichever occurs sooner. Upon the giving of such written notice by Tenant this Lease shall terminate on the date of such taking and the Rents shall be prorated as of such termination date. Upon such partial taking and this Lease continuing in force as to any part of the Demised Premises, the Rents apportioned to the part taken shall be prorated and adjusted as of the date of taking and from such date the Fixed Rent for the Demised Premises and Additional Rent shall be payable pursuant to Article 5 according to the rentable area remaining.

22.03 Landlord shall be entitled to receive the entire award in any proceeding with respect to any taking provided for in this Article without deduction therefrom for any estate vested in Tenant by this Lease and Tenant shall receive no part of such award, except as

hereinafter expressly provided in this Article. Tenant hereby expressly assigns to Landlord all of its right, title and interest in or to every such award. Notwithstanding anything herein to the contrary, Tenant may, at its sole cost and expense, make a claim with the condemning authority for Tenant's moving expenses, the value of Tenant's fixtures or Tenant's Changes which do not become part of the Building or property of the Landlord, provided however that Landlord's award is not thereby reduced or otherwise adversely affected.

22.04 If the temporary use or occupancy of all or any part of the Demised Premises shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose during the Term of this Lease, Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award for such taking which represents compensation for the use and occupancy of the Demised Premises and, if so awarded, for the taking of Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Fixed Rent and Additional Rent when due, provided that Tenant may, at its option, terminate this Lease if such temporary taking shall occur within six (6) months of the end of the Term. If the period of temporary use or occupancy shall extend beyond the Expiration Date, that part of the award which represents compensation for the use or occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive so much thereof as represents the period prior to the Expiration Date and Landlord shall receive so much thereof as represents the period subsequent to the Expiration Date. All moneys received by Tenant as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Rents hereunder have been paid by Tenant shall be received, held and applied by Tenant as a trust fund for payment of the Rents falling due hereunder.

22.05 In the event of any taking of less than the whole of the Building which does not result in a termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Demised Premises which does not result in a termination or extend beyond the Expiration Date, Landlord, at its expense, and to the extent any award or awards shall be sufficient for the purpose, shall proceed with reasonable diligence to repair, alter and restore the remaining parts of the Building and the Demised Premises to substantially their former condition to the extent that the same may be feasible and so as to constitute a complete and tenable Building and Demised Premises.

22.06 Should any part of the Demised Premises be taken to effect compliance with any law or requirement of public authority other than in the manner hereinabove provided in this Article, then (i) if such compliance is the obligation of Tenant under this Lease, Tenant shall not be entitled to any diminution or abatement of Rent or other compensation from Landlord therefor, but (ii) if such compliance is the obligation of Landlord under this Lease, the Fixed Rent hereunder shall be reduced and Additional Rents under Article 4 shall be adjusted in the same manner as is provided in Section 22.02 according to the reduction in rentable area of the Demised Premises resulting from such taking.

22.07 Any dispute which may arise between the parties with respect to the meaning or application of any of the provisions of this Article shall be determined by arbitration in the manner provided in Article 33.

ARTICLE 23

Surrender

23.01 On the last day of the Term, or on any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord in good order, condition and repair, except for ordinary wear and tear or casualty not the responsibility of Tenant hereunder and Tenant shall remove all of Tenant's Property therefrom except as otherwise expressly provided in this Lease and shall restore the Demised Premises wherever such removal results in damage thereto.

23.02 Any holding over or continued occupancy of the Demised Premises by Tenant after the Expiration Date shall not operate to extend or renew this Lease or to imply or create a new lease between Landlord and Tenant. In such event, Landlord shall have the right to immediately terminate Tenant's occupancy of the Demised Premises, or to treat Tenant's occupancy as a month-to-month tenancy, in which event Tenant shall continue to perform all of Tenant's obligations under this Lease as shall be in effect immediately prior to the expiration or date of earlier termination of this Lease; provided, however, during such period of holding over or continued occupancy Tenant shall pay to Landlord on the first day of each month during such period of Tenant's use and occupancy of the Demised Premises, the sum of (i) two times the Fixed Rent, plus (ii) all items of Additional Rent, payable to Landlord hereunder on the first day of the calendar month immediately preceding the month in which the expiration or early termination of this Lease shall occur ("Hold Over Rent"). In no event however, shall Tenant be relieved of any liability to Landlord for damages resulting from such holding over. Tenant agrees to indemnify and hold Landlord harmless from and against any costs, losses, damages and expenses suffered or incurred by Landlord as a result of Tenant's holding over or continued occupancy of the Demised Premises for more than thirty (30) days beyond the date of expiration earlier termination of this Lease, including, but not limited to such damages as Landlord may suffer as a result of its inability to lease the Demised Premises or any part thereof to a new tenant following the Expiration Date solely by reason of Tenant's holding over as provided herein.

ARTICLE 24

Conditions of Limitation; Events of Default

24.01 To the extent permitted by applicable law this Lease and the Term and estate hereby granted are subject to the limitation that whenever Tenant shall make an assignment of the property of Tenant for the benefit of creditors, or shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Tenant under any bankruptcy or insolvency law, or whenever a petition shall be filed or against Tenant under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a petition shall be filed by Tenant under the arrangement provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Tenant or of or for the property of Tenant shall be appointed, then, Landlord, (a) at any time after receipt of written

notice of the occurrence of any such event, or (b) if such event occurs without the acquiescence of Tenant, at any time after the event continues for one hundred twenty (120) days, Landlord may give Tenant a written notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of service of such notice of intention, and upon the expiration of said five (5) day period this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages' as provided in Article 26.

24.02 Each of the following occurrences, upon the giving of the applicable notice and expiration of the applicable cure period, shall be deemed Events of Default under this Lease:

(a) whenever Tenant shall default in the payment of any installment of Fixed Rent, or in the payment of any Additional Rent or any other charge payable by Tenant to Landlord, on any day upon which the same ought to be paid, and such default shall continue for five (5) business days after Landlord shall have given Tenant a written notice specifying such default;

(b) whenever Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability (as more particularly described in Section 9.02) or foreclosure of any Superior Mortgage, if Tenant shall not, (i) within said thirty (30) day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently prosecute to completion all steps necessary to remedy the same and (iii) complete such remedy within such time after the date of the giving of said notice to Landlord as shall reasonably be necessary;

(c) whenever (i) Landlord or Tenant shall have received notice of a violation of any local, State, or Federal law or regulation from any public authority resulting from a failure by Tenant to comply with such law or regulation and (ii) Tenant shall have failed to remedy the same within sixty (60) days after the date Tenant received notice of such violation, or if such violation is not susceptible to remedy within such sixty (60) day period, if Tenant shall have failed to promptly commence and thereafter diligently pursue remedy of the same;

(d) whenever any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term hereof would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted by Article 8; or

(e) if Landlord shall have terminated Tenant's lease with respect to premises within North General Hospital.

ARTICLE 25
Re-Entry by Landlord

25.01 Upon the occurrence of an Event of Default, Landlord or Landlord's agents and employees may immediately or at any time thereafter re-enter the Demised Premises, or any part thereof, in the name of the whole, either by summary dispossession proceedings or by any suitable action or proceeding at law, or by any other legal means, without being liable to indictment, prosecution or damages therefor (except to the extent resulting from Landlord's gross negligence or willful misconduct), and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises again as and of its first estate and interest therein. The word re-enter, as herein used, is not restricted to its technical legal meaning. In the event of any termination of this Lease under the provisions of this Lease or if Landlord shall re-enter the Demised Premises under the provisions of this Article by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall thereupon pay to Landlord the Fixed Rent and Additional Rent payable by Tenant to Landlord up to the time of such termination of this Lease, or of such recovery of possession of the Demised Premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided in Article 26.

25.02 In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right of injunction. The special remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may lawfully be entitled at any time and Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein. In the event of a breach or threatened breach by Landlord of any of its obligations under this Lease, Tenant shall have the right of injunction in addition to any other remedy which may be available to Tenant hereunder, allowed at law or in equity. The remedies to which Tenant may resort hereunder are cumulative and are not intended to be exclusive of any other remedies to which Tenant may lawfully be entitled at any time and Tenant may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein.

25.03 If this Lease shall terminate under the provisions hereof, or if Landlord shall re-enter the Demised Premises under the provisions of this Article, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all moneys, if any, paid by Tenant to Landlord, whether as advance Rent, security or otherwise, but such moneys shall be credited by Landlord against any Fixed Rent or Additional Rent due from Tenant at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant under Article 26 or pursuant to law.

ARTICLE 26
Damages

26.01 If this Lease is terminated under the provisions of this Lease, or if Landlord shall re-enter the Demised Premises under the provisions of Article 25, or in the event

of the termination of this Lease, or of re-entry, by or under any summary dispossess or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(a) A sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then discounted present value of the excess, if any, of

(1) the aggregate of the Fixed Rent and the Additional Rent payable hereunder which would have been payable by Tenant (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date, had this Lease not so terminated or had Landlord not so re-entered the Demised Premises, over

(2) The aggregate rental value of the Demised Premises for the same period, or

(b) sums equal to the Fixed Rent and the Additional Rent (as above presumed) payable hereunder which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Demised Premises, payable upon the due dates therefor specified herein following such termination or such re-entry and until the Expiration Date, provided, however, that if Landlord shall relet the Demised Premises during said period, or receive any other income or consideration in connection with the use or occupancy of the Demised Premises, Landlord shall credit Tenant with the net rents received by Landlord from such reletting (or the net amounts of such other income or consideration), such net rents and other amounts to be determined by first deducting from the gross rents and other amounts as and when received by Landlord the reasonable and actual expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof, as well as the reasonable and actual expenses of reletting, including altering and preparing the Demised Premises for new tenants, brokers' commissions, and all other customary and reasonable expenses properly chargeable against the Demised Premises and the rental therefrom; it being understood that any such reletting may be for a period shorter or longer than the remaining Term; but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this Subsection to a credit in respect of any net rents from a reletting or any net amounts of such other income or consideration, except to the extent that such net rents or other amounts are actually received by Landlord. If the Demised Premises or any part thereof should be relet in combination with other space, then proper apportionment on a rentable square foot basis (for equivalent space) shall be made of the rent received from such reletting and of the expenses of reletting.

If the Demised Premises or any part thereof be relet by Landlord for the unexpired portion of the Term, or any part thereof, before presentation of proof of such damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall, prima facie, be the fair and reasonable rental value for the Demised Premises, or part thereof, so relet during the term of the

reletting, provided that such reletting shall constitute a bona-fide arm's-length third party transaction.

Notwithstanding any other provision of this Lease, if the Demised Premises or any part thereof shall be used or occupied by Landlord or any affiliate of Landlord for the unexpired portion of the Term, or any part thereof, the value of such occupancy shall be conclusively deemed to be equal to the Fixed Rent and Additional Rent that would otherwise be due under this Lease and Tenant shall have no liability with respect to any such amounts; provided, however, that if Landlord or any Landlord affiliate occupies only a portion of the Demised Premises, the Fixed Rent and Additional Rent attributable to such occupancy shall be in proportion to the space occupied as compared with the entire Demised Premises.

26.02 Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired if it had not been so terminated under the provisions of this Lease, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Nothing herein contained shall be construed to limit or prejudice the right of Landlord to prove for and obtain as liquidated damages by reason of the termination of this Lease or re-entry on the Demised Premises for the default of Tenant under this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved whether or not such amount be greater, equal to, or less than any of the sums referred to in Section 26.01.

ARTICLE 27

Waivers

27.01 Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease for the Term hereby demised after being dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the termination of this Lease as herein provided.

27.02 In the event that Tenant is in arrears in payment of Fixed Rent or Additional Rent hereunder after notice and the expiration of the applicable cure periods, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited, and Tenant agrees that Landlord may apply any payments made by Tenant to any items it sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

27.03 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or

occupancy of the Demised Premises, including any claim of injury or damage, or any emergency or other statutory remedy with respect thereto.

27.04 The provisions of Articles 16 and 17 shall be considered expressed agreements governing the services to be furnished by Landlord, and Tenant agrees that any laws and/or requirements of public authorities, now or hereafter in force, shall have no application in connection with any enlargement of Landlord's obligations with respect to such services unless Tenant agrees, in writing, to pay to Landlord, as Additional Rent, Landlord's reasonable charges for any additional services provided.

ARTICLE 28

No Other Waivers or Modifications

28.01 The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No executory agreement hereafter made between Landlord and Tenant shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge or termination or effectuation of the abandonment is sought.

28.02 The following specific provisions of this Section shall not be deemed to limit the generality of any of the foregoing provisions of this Article:

(a) No agreement to accept a surrender of all or any part of the Demised Premises shall be valid unless in writing and signed by Landlord. The delivery of keys to an employee of Landlord or of its agent shall not operate as a termination of this Lease or a surrender of the Demised Premises. If Tenant shall at any time request Landlord to sublet the Demised Premises for Tenant's account, Landlord or its agent is authorized to receive said keys for such purposes without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord from any liability for loss or damage to any of Tenant's property in connection with such subletting, except to the extent resulting from Landlord's gross negligence or willful misconduct.

(b) The receipt by Landlord of Rent with knowledge of breach of any obligation of this Lease shall not be deemed a waiver of such breach.

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

ARTICLE 29
Curing Tenant's Defaults, Additional Rent

29.01 (a) If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the reasonable expense of Tenant, without notice, in a case of emergency, and in any other case, only if such default continues after the expiration of (i) five (5) business days from the date Landlord gives Tenant written notice of intention so to do, or (ii) the applicable grace period provided in Section 24.02 or elsewhere in this Lease for cure of such default, whichever occurs later;

(b) if Tenant is late in making any payment due to Landlord from Landlord under this Lease for more than fifteen (15) days, then interest shall become due and owing to Landlord on such payment from the date when it was due computed at the following rates:

(i) For an individual or partnership tenant, computed at the maximum legal rate of interest;

(ii) for a corporate tenant, computed at three (3%) percent per annum over the then prime rate of Citibank, N.A., or its successor, but in no event in excess of the maximum legal rate of interest chargeable to corporations in the State of New York.

29.02 Bills for any reasonable out-of-pocket expenses incurred by Landlord in connection with any such performance by it for the account of Tenant, and bills for all reasonable out-of-pocket costs, expenses and disbursements of every kind and nature whatsoever, including reasonable counsel fees, involved in collecting or endeavoring to collect the Fixed Rent or Additional Rent or any part thereof or enforcing or endeavoring to enforce any rights against Tenant, under or in connection with this Lease, or pursuant to law, including any such cost, expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished, or rendered, by Landlord or at its instance to Tenant, may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and such amounts shall be due and payable in accordance with the terms of such bills, but not sooner than thirty (30) days after the rendering of such bills, together with reasonable documentation with respect to such expenses. Notwithstanding anything to the contrary contained in this Section, Tenant shall have no obligation to pay the costs, expenses or disbursements of Landlord in any proceeding in which there shall have been rendered a final judgment against Landlord, and the time for appealing such final judgment shall have expired (the "Appeal Deadline") and, within thirty (30) days following the Appeal Deadline, Landlord shall reimburse to Tenant any amounts on account thereof that were previously paid by Tenant to any such party.

ARTICLE 30
Brokers

30.01 Landlord and Tenant covenant, warrant and represent to each other that there were no brokers or finders (the "Brokers") instrumental in consummating this Lease and

that no conversations or negotiations were had with any Brokers concerning the renting of the Demised Premises. Landlord and Tenant each agree to indemnify and hold the other party harmless from and against any claims or suits for a brokerage commission or finder's fee arising out of any conversations or negotiations had by the indemnifying party, as the case may be, with any Brokers.

ARTICLE 31

Notices

31.01 In order for the same to be effective, each and every notice, request or demand permitted or required to be given by the terms and provisions of this Lease, or by any laws and/or requirements of public authorities, either by Landlord to Tenant or by Tenant to Landlord (any of the foregoing being referred to in this Article 31 as a "Notice"), shall be given in writing, in the manner provided in this Section 31.01, unless expressly provided otherwise elsewhere in this Lease. All Notices shall be delivered by hand or by a nationally recognized overnight courier, and shall be deemed to have been delivered on the date of receipt thereof (or the date that such receipt is refused, if applicable). In the case of Notices given by Landlord to Tenant, any such Notice shall be addressed to Tenant at the following address: 16 East 16th Street, New York, New York 10003 to the attention of Dr. Neil Calman, with copies to Manatt, Phelps & Phillips, LLP, 7 Times Square, New York, New York 10036, Attention: Helen R. Pfister and the Dormitory Authority of the State of New York, 515 Broadway, Albany, New York 12207-2964. In the case of Notices given by Tenant to Landlord, any such Notice shall be addressed to Landlord as follows: 1879 Madison Avenue, New York, New York 10035, Attn: Mr. John Maher, with copies to: Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019, Attention: Charles E. Simpson and the Dormitory Authority of the State of New York, 515 Broadway, Albany, New York 12207-2964, and with copies thereof delivered as aforesaid to any additional parties designated in accordance with Section 6.02. Either party may, by notice as aforesaid, designate a different address or addresses for Notices.

31.02 Notices may be given on behalf of Landlord by Windels Marx Lane & Mittendorf, LLP and on behalf of Tenant by Manatt, Phelps & Phillips, LLP.

ARTICLE 32

Estoppel Certificate, Memorandum

32.01 (a) Tenant agrees, at any time and from time to time, as requested by Landlord, upon not less than ten (10) business days' prior written notice, to execute and deliver to Landlord, or such person(s) indicated by Landlord in its request, a statement certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (b) certifying the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Landlord is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Landlord may be dealing.

(b) Landlord agrees, at any time and from time to time, as requested by Tenant, upon not less than ten (10) business days' prior written notice, to execute and deliver to Tenant a statement certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, and (ii) the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Tenant is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Tenant may be dealing.

ARTICLE 33 Arbitration

33.01 Either party may request arbitration of any matter in dispute wherein arbitration is expressly provided in this Lease as the appropriate remedy. The party requesting arbitration shall do so by giving notice to that effect to the other party, and both parties shall promptly thereafter jointly apply to the American Arbitration Association (or any organization successor thereto) in the City and County of New York for the appointment of a single arbitrator.

33.02 The arbitration shall be conducted in accordance with the then prevailing rules of the American Arbitration Association (or any organization successor thereto) in the City and County of New York. In rendering such decision and award, the arbitrator shall not add to, subtract from or otherwise modify the provisions of this Lease.

33.03 If for any reason whatsoever a written decision and award of the arbitrator shall not be rendered within sixty (60) days after the appointment of such arbitrator, then at any time thereafter before such decision and award shall have been rendered either party may apply to the Supreme Court of the State of New York or to any other court having jurisdiction and exercising the functions similar to those now exercised by such court, by action, proceeding or otherwise (but not by a new arbitration proceeding) as may be proper to determine the question in dispute consistently with the provisions of this Lease.

33.04 The expenses of the arbitration shall be borne by the party that is not the prevailing party, except that each party shall be responsible for the fees and expenses of its own counsel.

ARTICLE 34 No Other Representations; Construction; Governing Law; Consents; Lease Not Binding Unless Executed and Delivered; No Recording

34.01 Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement which may be made between the parties concurrently with the execution and delivery of this Lease and shall expressly refer to

this Lease including, without limitation, that certain Definitive Agreement Regarding Asset Purchase and Services by and among Landlord, Tenant and North General Diagnostic and Treatment Center, dated as of July 1, 2010. This Lease and said other written agreement(s) made concurrently herewith are hereinafter referred to as the "lease documents". It is understood and agreed that all understandings and agreements heretofore had between the parties are merged in the lease documents, which alone fully and completely express their agreements and that the same are entered into after full investigation, neither party relying upon any statement or representation not embodied in the lease documents, made by the other. Tenant and Landlord each represent that it has the right, power and authority to enter into this Lease, and that the party executing this Lease on such party's behalf has due authority, and no third party consent is required in connection therewith.

34.02 If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

34.03 This Lease shall be governed in all respects by the substantive laws of the State of New York without regard to principles of conflicts of laws thereof.

34.04 Wherever in this Lease Landlord's consent or approval is required, if Landlord shall refuse such consent or approval, Tenant in no event shall be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, for specific performance, injunction or declaratory judgment.

34.05 Submission of this Lease for execution shall confer no rights nor impose any obligations on either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties.

34.06 Tenant covenants and agrees that it shall not place of record this Lease or a memorandum thereof and that the placement of record of this Lease or a memorandum thereof by Tenant shall constitute the breach by Tenant of a material covenant of this Lease.

34.07 Tenant, at Tenant's sole cost and expense, shall have the right to install a sign on the entrance doors to the Demised Premises, which sign (the content, location and materials of which) shall be subject to the terms hereof, and Landlord's prior consent, not to be unreasonably withheld or delayed.

ARTICLE 35 **Parties Bound**

35.01 The obligations of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 8 shall operate to vest

any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 24. However, the obligations of Landlord under this Lease shall not be binding upon Landlord herein named with respect to any period subsequent to the transfer of its interest in the Building as owner or lessee thereof and in event of such transfer said obligations shall thereafter be binding upon each transferee of the interest of Landlord herein named as such owner or lessee of the Building, but only with respect to the period ending with a subsequent transfer within the meaning of this Article.

35.02 If Landlord shall be an individual, joint venture, tenancy in common, co-partnership, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Tenant shall look only to such Landlord's estate and property in the Building, any insurance or condemnation proceeds with respect thereto, the sales proceeds thereof, and, where expressly so provided in this Lease, to offset against the Rents payable under this Lease, for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of such Landlord or any partner, member, officer or director thereof, disclosed or undisclosed shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord's and Tenant hereunder or Tenant's use or occupancy of the Demised Premises.

35.03 This Lease may be executed in a number of identical counterparts, all of which shall constitute a single Lease. This Lease may be executed by facsimile or electronically distributed signatures with the same effect as if such signatures were original.

ARTICLE 36

Certain Definitions and Construction

36.01 For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires the definitions set forth in the Exhibits annexed hereto shall be utilized.

36.02 The various terms which are italicized and defined in other Articles of this Lease or are defined in Exhibits annexed hereto, shall have the meanings specified in such other Articles and such Exhibits for all purposes of this Lease and all agreements supplemental thereto, unless the context shall otherwise require.

ARTICLE 37

Adjacent Excavation - Shoring

37.01 If an excavation or other substructure work shall be made upon land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Demised Premises for the purpose of doing such work as shall be necessary to preserve the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement or Rent. In the event that Landlord or

its employees or contractors shall perform or cause to be performed such work, Landlord shall use reasonable efforts to cause the foregoing to be performed in such a manner as to minimize interference with Tenant's operation of its business in the Demised Premises, and Landlord shall indemnify Tenant from and against claims arising from the gross negligence or willful misconduct of Landlord in the performance of such work, together with all reasonable, actual out-of-pocket costs, expenses and liabilities incurred in or in connection with each such claim or action or proceeding brought thereon, including, without limitation, all reasonable attorneys' fees and expenses.

ARTICLE 38
Reentry by Landlord

In accordance with the requirements of 10 NYCRR Section 600.2, the parties agree as follows:

(a) "The landlord acknowledges that his rights of reentry into the premises set forth in this lease do not confer on him the authority to operate a hospital as defined in article 28 of the Public Health law on the premises and agrees that he will give the New York State Department of Health, Tower Building, Empire State Plaza, Albany, N.Y. 12237, notification by certified mail of this intent to reenter the premises or to initiate dispossess proceedings to exercise a right of reentry or to initiate such proceedings or at least 60 days before expiration of the lease."

"Upon receipt of notice from the landlord of his intent to exercise the reentry or upon the service of process in dispossess proceedings and 60 days prior to the expiration of the lease, the tenant shall immediately notify by certified mail the New York State Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237, of the receipt of such notice or service of such process or that the lease is about to expire."

ARTICLE 39
Tenant's Option to Purchase

A. For purposes of this Section, the term "Annex Property" shall mean (a) the parcel of land more particularly described in Exhibit A attached hereto ("Land"); (b) all buildings and improvements situated on the Land (the "Building"); (c) all right, title and interest of Landlord, if any, in and to the land lying in the bed of any street or highway in front of or adjoining the Land to the center line thereof and to any unpaid award for any taking by condemnation or any damage to the Land by reason of a change of grade of any street or highway; (d) the appurtenances and all the estate and rights of Seller in and to the Land and Building; and (e) all right, title and interest of Seller, if any, in and to the fixtures and other property attached to the Building. Tenant shall notify Landlord in writing (the "Annex Property Purchase Option Notice") no later than one hundred eighty (180) days prior to the end of the Term, subject to Tenant's Renewal Option, if Tenant desires to purchase the Annex Property. For the purposes of this Article, the term "Fair Market Value" shall mean the price which a willing purchaser unrelated to Landlord would then be willing to pay to Landlord for the Property in an "arm's-length" transaction as unencumbered by this Lease, free and clear of any mortgage, assuming that neither Landlord nor such purchaser was under any compulsion to

consummate such sale. Within 45 days after Landlord's receipt of the Option Notice (the "Price Determination Date"), Landlord and Tenant shall consult with each other in order to endeavor to agree in writing upon the Fair Market Value of the Property. Any value agreed upon by Landlord and Tenant in writing shall constitute the Fair Market Value for the Property, and the purchase price shall be equal thereto.

B. Landlord hereby grants to Tenant the option (the "Purchase Option") to purchase the Property by written notice from Tenant to Landlord (the "Option Notice") given not more than 360 days, nor less than 180 days, prior to the Expiration Date of the Initial Term or the Renewal Term, as the case may be. The purchase price for the Property shall be equal to the "Fair Market Value" of the Property, which shall be determined as hereinafter set forth. It is understood and agreed that Tenant shall not have the right to purchase the Annex Property pursuant to this Section unless all of the following conditions ("Annex Property Purchase Conditions") are satisfied or waived by Landlord in writing as of the date of the Annex Property Purchase Option Notice:

- (1) The Lease shall be in full force and effect; and
- (2) Tenant has not assigned the Lease.

C. The parties acknowledge that "time is of the essence" with respect to all notices and dates in this Section. If Tenant does not timely send the Annex Property Purchase Option Notice pursuant to the provisions of this Section, this Section shall have no further force or effect and shall be deemed deleted from this Lease.

D. In determining the Fair Market Value for the Annex Property pursuant to this Section, the Fair Market Value shall be determined as of the date of the Annex Property Purchase Option Notice (such date is hereinafter called the "Purchase Price Determination Date"). The determination of the Fair Market Value for the Annex Property shall be made pursuant to the provisions herein and the arbitrators shall be so advised. Landlord and Tenant shall endeavor to agree as to the amount of the Fair Market Value during the fifteen (15) day period following the Purchase Price Determination Date. In the event that Landlord and Tenant cannot agree as to the amount of the Fair Market Value within such fifteen (15) day period following the Purchase Price Determination Date, then Landlord or Tenant may initiate the arbitration process provided for herein by giving written notice to that effect to the other within thirty (30) days of the Purchase Price Determination Date, and the party so initiating the arbitration process (such party herein called the "Initiating Party") shall specify in such written notice the name and address of the person designated to act as an arbitrator on its behalf. Within fifteen (15) days after the designation of such arbitrator, the other party (herein called the "Other Party") shall give written notice to the Initiating Party specifying the name and address of the person designated to act as an arbitrator on its behalf. If the Other Party fails to notify the Initiating Party of the appointment of its arbitrator within the time specified, then the Initiating Party shall select the second arbitrator. The two arbitrators so chosen shall meet within ten (10) days after the second arbitrator is appointed and if, within thirty (30) days after the second arbitrator is appointed, the two arbitrators shall not agree on the Fair Market Value, they shall together appoint a third arbitrator. Each party shall pay the fees and expenses of one of the two

original arbitrators appointed by or for such party, and the fees and expenses of the third arbitrator and all other expenses (not including the attorneys fees, witness fees and similar expenses of the parties which shall be borne separately by each of the parties) of the arbitration shall be borne by the parties equally. The majority of the arbitrators shall determine the Fair Market Value and render a written certified report of their determination to both Landlord and Tenant within thirty (30) days of the appointment of the first two arbitrators or thirty (30) days from the appointment of the third arbitrator if such third arbitrator is appointed pursuant to this Section; and the Fair Market Value, so determined, shall be the purchase price for the Annex Property. Each of the arbitrators shall have at least ten (10) years relevant experience in the purchase and sale of similar real property in New York, New York.

E. Closing on the Annex Property shall take place thirty (30) days after the final determination of the Fair Market Value by the arbitrators in the office of Landlord's counsel (the "Closing Date"). If the Closing Date falls on a Saturday, Sunday or legal holiday, the closing shall take place on the first business day thereafter. In the event that Tenant fails to close on the Closing Date, through no fault of Seller, Tenant shall have no further right to purchase the Annex Property and such failure shall be deemed an Event of Default under the Lease.

F. The parties shall prorate all costs customarily subject to proration in New York, New York in connection with the sale of real property.

G. Landlord shall pay the New York State and New York City Real Property Transfer Taxes, to the extent due, and Tenant agrees to pay all other transfer or conveyance taxes are, by law, the primary responsibility of a purchaser of real property in New York, New York, in connection with the sale of the Annex Property to Tenant.

H. At the time of closing, Landlord shall deliver to Tenant a bargain and sale deed with covenants against grantor's acts in a form acceptable for recording, executed and acknowledged by Landlord, so as to convey insurable title to the Annex Property to Tenant, free and clear of all liens except any such liens that were cause by or through Tenant. Landlord and Tenant shall also execute and deliver such other documents as are usual and customary in connection with the sale and purchase of real property of this type in New York, New York.

[LEASE SIGNATURE PAGE FOLLOWS]

[LEASE SIGNATURE PAGE]

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: _____
Name:
Title:

TENANT:

The Institute for Family Health,
a New York not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

EXHIBIT B

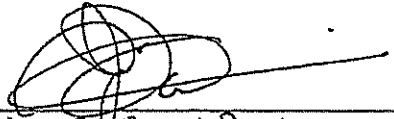
DEMISED PREMISES

[LEASE SIGNATURE PAGE]

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: 
Name: Dr. Samuel Daniels
Title: President & CEO

TENANT:

The Institute for Family Health,
a New York not-for-profit corporation

By: _____
Name:
Title:

IN WITNESS WHEREOF, this Medical Records Custody Agreement is signed as of the day and year first above written.

NORTH GENERAL HOSPITAL

**NORTH GENERAL DIAGNOSTIC AND
TREATMENT CENTER**

By: _____
Name:
Title:

By: _____
Name:
Title:

INSTITUTE FOR FAMILY HEALTH

By: _____
Name: Neil Calman MD
Title: President & CEO

Exhibit "C"

WMLM
Execution

DEFINITIVE AGREEMENT REGARDING ASSET PURCHASE AND SERVICES

THIS DEFINITIVE AGREEMENT REGARDING ASSET PURCHASE AND SERVICES (the "Agreement"), made this 1st day of July, 2010, is entered into by and among NORTH GENERAL HOSPITAL, a New York not-for-profit corporation ("NGH"), NORTH GENERAL DIAGNOSTIC AND TREATMENT CENTER, a New York not-for-profit corporation ("NG-D&TC"; together with NGH, the "NGH Entities" and each an NGH Entity) and INSTITUTE FOR FAMILY HEALTH, a New York not-for-profit corporation ("IFH"). (NGH, NG-D&TC and IFH may each hereafter be referred to as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, NGH owns that certain parcel of real property located at 1879 Madison Avenue, New York, New York and known as North General Hospital ("Hospital") in which NG-D&TC owns and operates a diagnostic and treatment center (the "D&TC"); and

WHEREAS, NGH is the owner of certain assets and property used by NG-D&TC in connection with operation of the D&TC; and

WHEREAS, IFH provides primary and preventative comprehensive health services through its federally qualified health center ("FQHC") sites in Manhattan and elsewhere in New York State; and

WHEREAS, NGH and IFH have entered into (i) a lease agreement dated as of July 1, 2010, pursuant to which IFH will occupy a portion of the Hospital (the "Hospital Lease") and also pursuant to which IFH has granted to NGH an irrevocable license to enter the Demised Premises (as defined in the Hospital Lease), such license to commence July 1, 2010 at 6 AM and expire on July 5, 2010 at 5 PM, and (ii) a lease agreement dated as of July 1, 2010, pursuant to which IFH will occupy a portion of the real property located at 1824 Madison Avenue, New York, New York and known as the "Annex" (the "Annex Lease"; together with the Hospital Lease, collectively, the "Lease") and also pursuant to which IFH has granted to NGH an irrevocable license to enter the Demised Premises (as defined in the Annex Lease), such license to commence July 1, 2010 at 6 AM and expire on July 5, 2010 at 5 PM (such form Lease attached hereto as Exhibit A);

WHEREAS, IFH will operate an FQHC site to be known as the "Family Health Center at North General" (the "FQHC Site") at the Hospital and the Annex; and

WHEREAS, NGH, NG D&TC and IFH have simultaneously entered into a Medical Records Custody Agreement in the form attached hereto as Exhibit B (the "Medical Records Custody Agreement") ; and

WHEREAS, in connection with the operation of the FQHC Site, (i) IFH desires to purchase from the NGH Entities and the NGH Entities desire to sell to IFH certain assets and properties and (ii) the Parties desire to memorialize, *inter alia*, their understandings with respect to the services to be provided at the FQHC Site by IFH.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the Parties hereby agree as follows:

I. SALE AND PURCHASE OF ASSETS

1.1 Sale and Purchase. Upon the satisfaction of all of the conditions set forth in this Agreement and the closing of the transactions contemplated herein, the NGH Entities shall sell, transfer, assign and convey to IFH, and IFH shall purchase from the NGH Entities, all of the NGH Entities' right, title and interest in and to all of the Purchased Assets (as defined herein), free and clear of all liens, claims, security interests, and encumbrances whatsoever (collectively, the "Liens").

1.2 Purchased Assets. As used herein the term "Purchased Assets" means, other than the Excluded Assets (as defined herein), the assets owned by NGH that are physically located in the D&TC on the date hereof and certain other assets owned by NG-D&TC, as set forth below:

1.2.1 All inventory, supplies, equipment, furniture, and other tangible personal property physically located (i) in the D&TC, owned by NGH and utilized by NG-D&TC in connection with the operation of the D&TC and (ii) in the Hospital, owned and utilized by NGH in connection with NGH's outpatient mental health services and specialty services (HIV/AIDS), (the "Other Outpatient Services"); as set forth in more detail on Schedule 1.2.1 herein, all of which shall be delivered to IFH on the Closing Date (as defined herein), except as otherwise contemplated by the Medical Records Custody Agreement in good working order, reasonable and ordinary wear and tear excepted;

1.2.2 All business records and files that IFH may reasonably require or request relating to the operation of the D&TC or the Other Outpatient Services; provided that the NGH Entities may retain copies of and/or access to all such records and files;

1.2.3 Certain grants or contracts as set forth in more detail in Section 6.1.4 herein; and

1.2.4 Certain computer and dental equipment which was purchased by NGH within the last month.

1.3 Closing Date. As used herein, the term "Closing Date" shall mean that date on which all of the closing conditions set forth in Section 5.1 and 5.3 herein have been satisfied, or such other date as may be mutually agreed to in writing by the Parties, or any adjourned date established in accordance with this Agreement. If either party, despite reasonable efforts, has

been unable to satisfy any of such Party's closing conditions set forth in this Agreement, such Party may adjourn the Closing Date until the first day of the month after which such Party has satisfied such closing conditions, subject to the termination provisions set forth in Section 8.7 hereof.

1.4 Liabilities. IFH is not assuming any liabilities of the NGH Entities, including but not limited to accounts payable, Medicaid, Medicare or other third party reimbursement liabilities, in any case, whether known or unknown, direct or indirect, accrued or unaccrued, contingent or not contingent, now existing or hereafter arising, including accounts payable existing prior to the Closing Date, all of which shall remain the sole responsibility and obligation of NGH Entities, as applicable. IFH is not assuming any liability for the payment of any penalties, fines, awards or damages concerning compliance or failure to comply with federal and state Workers Adjustment and Retraining Notification Act ("WARN Act") provisions or any form of wage and benefit payments for employees of the NGH Entities. Notwithstanding the foregoing, IFH shall be responsible and liable for all liabilities and obligations arising in connection with the operation of the FQHC Site incurred on or after the Closing Date, including, accounts payable, Medicaid, Medicare or other third party reimbursement liabilities.

1.5 Excluded Assets. Notwithstanding the provisions of Section 1.2, the Purchased Assets shall not include:

1.5.1 All amounts payable to the NGH Entities (in the form of accounts receivable or otherwise) including, without limitation, trade receivables of the NGH Entities arising from the operation of the D&TC or the Other Outpatient Services by the NGH Entities prior to the Closing Date;

1.5.2 All cash on hand or in any checking, savings or other bank account of either NGH Entity;

1.5.3 Any rights to refunds, settlements and retroactive adjustments arising in connection with any third party healthcare payor program, including Medicare and Medicaid arising from the operation of the D&TC or the Other Outpatient Services by the NGH Entities prior to the Closing Date;

1.5.4 Personal computers, printers and physical and occupational therapy equipment; and

1.5.5 Patient records certain of which may have been electronically transferred to IFH prior to the date hereof or the Closing Date, provided that subject to the Medical Records Custody Agreement, the NG-DT&C shall provide IFH with custody of certain patient records; and

2. CONSIDERATION FOR SPECIFIED ASSETS

2.1 Purchase Price. On the terms and conditions set forth herein, as full consideration for the Purchased Assets, IFH shall pay to NGH, or its designee, Two Hundred Thirty Two

Thousand Seven Hundred Dollars (\$232,700.00) (the "Purchase Price") pursuant to the terms of a promissory note (the "Promissory Note"), the form of which is attached hereto as Exhibit E, and which Promissory Note will be assigned to Dormitory Authority of the State of New York (the "Authority"), as follows:

2.1.1 Twenty-four installments of \$10,000.00 each (which payments include principal and interest payments as set forth in the Promissory Note), commencing on the Closing Date and continuing on the first business day of the twenty-three (23) months thereafter.

3. REPRESENTATIONS AND WARRANTIES OF THE NGH ENTITIES. NGH and NG-D&TC each hereby represent and warrant to IFH with respect to itself, that the matters set forth in each and every paragraph of this Section 3 are true and correct as of the date hereof.

3.1 Organization. Each NGH Entity is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the state of New York. Each of NGH and NG-D&TC has the full power and authority to own all of their respective Purchased Assets.

3.2 Authorization and Enforceability. The execution, delivery and performance of this Agreement by each NGH Entity has been duly authorized by all required action on the part of such NGH Entity. This Agreement constitutes the valid and legally binding agreement of each NGH Entity enforceable against it in accordance with its respective terms.

3.3 Title to Assets. The NGH Entities have good and marketable title to the Purchased Assets, free and clear of any and all Liens, and the sale of the Purchased Assets by the NGH Entities pursuant hereto will effectively convey good, marketable and clear title to IFH.

3.4 Compliance with Laws. The NG-D&TC, to the best of its knowledge and except as disclosed herein on Schedule 3.5 and 3.6 to this Agreement, is in compliance in all material respects with all applicable statutes, rules, regulations and requirements of governmental authorities having jurisdiction over the D&TC, and has filed all reports, data and other information with such authorities on a timely basis.

3.5 Governmental Proceedings. Except as set forth on Schedule 3.5, there are no claims, actions, suits, arbitrations, governmental investigations, inquiries or proceedings pending or, to the best of the each NGH Entity's knowledge, threatened, before any court, governmental body or private arbitration tribunal, nor are there any outstanding orders, writs, injunctions or decrees of any court, arbitration or government agency which might materially adversely affect the Purchased Assets or the operation of the D&TC or the transactions contemplated herein.

3.6 Absence of Litigation. Except as set forth on Schedule 3.6 hereto and to the knowledge of NGH, (i) there is no claim, action, suit, litigation, proceeding, arbitration or, to knowledge of NGH or the NG-D&TC, investigation of any kind, at law or in equity (including actions or proceedings seeking injunctive relief), pending against the NG-D&TC and (ii) the NG-D&TC is not subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of NGH or the NG-D&TC, continuing investigation by, any governmental or regulatory authority, entity, department, commission,

board, agency or instrumentality, whether domestic or foreign ("Governmental Entity") or any judgment, order, writ, injunction, decree or award of any Governmental Entity or arbitrator, including, without limitation, cease-and-desist or other orders the result of which would have a material adverse effect on the transaction contemplated herein.

3.7 Patient Visits and Payer Mix. Schedule 3.7 sets forth a report reasonably compiled by the management of NG-D&TC indicating the payor mix and patient volume by primary care and subspecialty at the D&TC for the prior year.

3.8 Insurance. Schedule 3.8 sets forth a list of all insurance policies maintained by or on behalf of the NG-D&TC as of the date hereof. All such policies are and will remain in full force and effect until the Closing Date.

4. REPRESENTATIONS AND WARRANTIES OF IFH. IFH represents and warrants to the NGH Entities that the matters set forth in each and every paragraph of this Section 4 are true and correct as of the date hereof.

4.1 Organization. IFH is a not-for-profit corporation duly organized, validly existing and in good standing under the laws of the state of New York, exempt from Federal income taxes under Section 501(c) of the Code. IFH is a federally qualified health center as defined in Subchapter 19 of the Social Security Act (42 USC §1396 et seq.) and a recipient of funding under Section 330 of the Public Health Service Act. IFH has the full power and authority to own all of its assets and conduct its business, including, subject to receipt of the Health Consents (as hereinafter defined) the operation of the FQHC Site.

4.2 Authorization and Enforceability. The execution, delivery and performance of this Agreement by IFH has been duly authorized by all required action on the part of IFH. This Agreement constitutes the valid and legally binding agreement of IFH enforceable against it in accordance with its terms.

4.3 Compliance with Law. IFH has all requisite licenses, permits, consents and certificates from all federal, state and local governmental entities (collectively, "Permits") necessary to operate its existing facilities including, without limitation, approval by the New York State Department of Health and the Federal Bureau of Primary Health Care. There are no proceedings in progress, pending or, to IFH's knowledge, threatened, which may result in revocation, cancellation, suspension, or any material adverse modification of any of such Permit. IFH is not in violation of any law, statute, rule, regulation, ordinance, judgment, order, writ, injunction or decree, in each case, applicable to or binding upon IFH or its assets.

4.4 Governmental Proceedings. Except as set forth on Schedule 4.4, there are no claims, actions, suits, arbitrations, governmental investigations, inquiries or proceedings pending or, to the best of the IFH's knowledge, threatened, before any court, governmental body or private arbitration tribunal, nor are there any outstanding orders, writs, injunctions or decrees of any court, arbitration or government agency which might materially adversely affect the operation of IFH's existing facilities, the FQHC Site or the transactions contemplated herein.

4.5 Absence of Litigation. Except as set forth on Schedule 4.5 hereto, (i) there is no claim, action, suit, litigation, proceeding, arbitration or, to knowledge of IFH, investigation of any kind, at law or in equity (including actions or proceedings seeking injunctive relief), pending against IFH and (ii) IFH is not subject to any continuing order of, consent decree, settlement agreement or other similar written agreement with, or, to the knowledge of IFH, continuing investigation by, any Governmental Entity or any judgment, order, writ, injunction, decree or award of any Governmental Entity or arbitrator, including, without limitation, cease-and-desist or other orders the result of which would have a material adverse effect on the transactions contemplated herein.

4.6 Healthcare Regulatory Compliance. To the knowledge of IFH, no fact exists which would cause any governmental entity not to recommend approval of the Health Consents.

5. CONDITIONS PRECEDENT AND CLOSING OF ASSET TRANSFER

5.1 Conditions Precedent to the Obligations of the NGH Entities. All obligations of the NGH Entities to consummate the transactions contemplated hereby are subject to the fulfillment or satisfaction, prior to or at the Closing Date, of each of the following conditions precedent:

5.1.1 Evidence that IFH has obtained all requisite Permits from all federal, state and local governmental entities necessary to operate the FQHC Site and effectuate the transfer of the Purchased Assets, including, without limitation, approval by the New York State Department of Health of operations by IFH of the FQHC Site and approval by the Federal Bureau of Primary Health Care of the addition of the FQHC Site to IFH's FQHC scope of project thereby enabling IFH to obtain enhanced, cost-based Medicare and Medicaid reimbursement rates available to federally health qualified centers for services provided at the FQHC Site (the "Health Consents").

5.1.2 No action or proceeding before a court, arbitrator or governmental agency shall have been instituted or threatened to restrain the transactions contemplated herein.

5.1.3 IFH, to its knowledge, is not in violation of any law, statute, rule, regulation, ordinance, judgment, order, writ, injunction or decree, in each case, applicable to or binding upon IFH or which would restrain the transactions contemplated herein other than as disclosed to the NGH Entities.

5.1.4 IFH shall have delivered to the NGH Entities all of the items specified in Section 5.4 hereof.

5.1.5 The NGH Entities shall have obtained all consents and approvals from governmental agencies, judicial bodies and other third parties which the NGH Entities may be required to obtain under applicable laws and regulations to effectuate the transfer of the Purchased Assets to IFH and IFH's operation of the FQHC Site.

5.1.6 The representations and warranties of IFH contained in this Agreement shall be true in all material respects at and as of the Closing Date.

5.2 Closing Deliveries of NGH. NGH shall deliver to IFH, on the Closing Date, the following:

5.2.1 Possession and control of all of the Purchased Assets;

5.2.2 Signature pages to (i) the Bill of Sale, in the form annexed hereto as Exhibit C and (ii) such other assignments, and documents of sale, transfer, assignment and conveyance as IFH, may reasonably require, in order to effectively sell, transfer, assign and convey to IFH all right, title and interest in and to all of the Purchased Assets;

5.2.3 All other agreements, certificates, instruments and documents reasonably requested by IFH in order to fully consummate the transactions contemplated hereby and carry out the purposes and intent of this Agreement.

5.3 Conditions Precedent to the Obligations of IFH. All obligations of IFH to consummate the transactions contemplated by this Agreement are subject to the fulfillment or satisfaction, prior to or at the Closing Date, of each of the following conditions precedent:

5.3.1 No action or proceeding before a court, arbitrator or governmental agency shall have been instituted or threatened to restrain the transactions contemplated herein.

5.3.2 No material adverse change in the Purchased Assets shall have occurred.

5.3.3 The NGH Entities shall have obtained and furnished to IFH a certificate of evidence of medical malpractice tail coverage policies as set forth in Schedule 3.8 hereof.

5.3.4 IFH shall have obtained a written statement from the New York State Department of Health of an approximate reimbursement rate or rates satisfactory to IFH for services to be provided by IFH to Medicaid patients after the Closing Date at the FQHC Site.

5.3.5 IFH shall have obtained the Health Consents.

5.3.6 The NGH Entities shall have obtained all consents and approvals from governmental agencies, judicial bodies and other third parties which the NGH Entities may be required to obtain under applicable laws and regulations to effectuate the transfer of the Purchase Assets to IFH and IFH's operation of the FQHC Site.

5.3.7 The representations and warranties of the NGH Entities contained in this Agreement shall be true in all material respects at and as of the Closing Date.

5.3.8 IFH and the NGH Entities shall have developed mutually agreed upon pro forma financial statements for the FQHC Site indicating that the FQHC Site can be operated at breakeven.

5.3.9 Neither of the NGH Entities, to its knowledge, respectively, is in violation of any law, statute, rule, regulation, ordinance, judgment, order, writ, injunction or decree, in each case, applicable to or binding upon the D&TC or the Purchased Assets other than as disclosed to IFH on Schedule 3.5 and 3.6 to this Agreement.

5.3.10 The NG-D&TC and NGH shall have issued notices to its employees in compliance with the federal and the New York State WARN Act.

5.3.11 The NGH Entities shall have delivered to IFH all of the items specified in Section 5.2 hereof.

5.3.12 The entry of an order ("Order"), in form reasonably satisfactory to IFH, by the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") in the chapter 11 case to be filed by the NGH Entities, authorizing the NGH Entities to assume and consummate this Agreement. The NGH Entities agree to promptly file all motions and applications with the Bankruptcy Court necessary or convenient to obtain such Order and approval of the transactions contemplated by this Agreement and the Lease (the "Transaction"), including, without limitation, motions under sections 363 and 365 of the United States Bankruptcy Code to assume the Lease and for approval of the sale of Purchased Assets to IFH, such that the Transactions shall close as provided in this Agreement. The NGH Entities shall file such motions at the earliest practicable opportunity, but in no event later than July 7, 2010. The NGH Entities shall diligently prosecute such motions and shall use its best efforts to obtain the Order at the earliest possible hearing date. The NGH Entities shall further use their best efforts to ensure that the Order contains a provision preventing the assertion against IFH of any claims of successor liability for any debts or obligations of the NGH Entities, and shall further use its best efforts to obtain in such Order a waiver of any applicable stays of such Order, including, without limitation, any stay provided for by Federal Rule of Bankruptcy Procedure 6005(h).

5.4 Closing Deliveries of IFH. On the Closing date, IFH shall deliver to NGH the following:

5.4.1 The first installment in the amount of \$10,000 due under the Promissory Note;

5.4.2 Signature pages to the Promissory Note;

5.4.3 Evidence that IFH maintains professional liability coverage as required under the Federal Tort Claims Act ("FTCA") and medical malpractice insurance in amounts sufficient to cover any gaps in such FTCA coverage so as to provide aggregate coverage customary for an FQHC similar to the FQHC Site;

5.4.4 Evidence that IFH has obtained the Permits and Health Consents and that there are no proceedings in progress, pending or, to IFH's knowledge, threatened, which may result in revocation, cancellation, suspension, or any material adverse modification of any of the Permits or Health Consents; and

5.4.5 All other agreements, certificates, instruments and documents reasonably requested by NGH in order to fully consummate the transactions contemplated hereby and carry out the purposes and intent of this Agreement.

6. PRE-CLOSING COVENANTS

6.1 Covenants of the NGH Entities. From the date hereof until the Closing Date, the NGH Entities will:

6.1.1 Maintain the D&TC and the Purchased Assets in their present condition, ordinary wear and tear excepted;

6.1.2 Not sell, assign, lease or otherwise transfer any of the Purchased Assets except in the ordinary course of business and with comparable replacement thereof;

6.1.3 Not voluntarily create, assume or permit to exist any new encumbrance upon the Purchased Assets;

6.1.4 Make reasonable efforts to maintain and transition to IFH the hospital grants listed on Schedule 6.1.4 herein to the extent that such hospital grants or other funding sources are transferable and will support the services afforded or to be afforded at the FQHC Site as contemplated herein; and

6.1.5 Use their best efforts to obtain any approvals or consents of governmental agencies or judicial bodies which the NGH Entities are required to obtain under applicable laws and regulations to effectuate the transfer of the Purchased Assets to IFH and/or IFH's operation of the FQHC Site.

6.2 Covenants of IFH. From the date hereof until the Closing Date, IFH will:

6.2.1 Use its best efforts to obtain any approvals or consents of governmental agencies or judicial bodies which IFH is required to obtain under applicable laws and regulations to effectuate the transfer of the Purchased Assets to IFH and/or IFH's operation of the FQHC Site, including the Permits and Health Consents.

6.2.2 Prior to the Closing Date, coordinate with the NGH Entities to develop and obtain additional sources of revenue and funding to support and expand the Baseline

Services (as defined in Section 7.2.1) to include, without limitation, chronic disease services and extended hour primary and urgent care services at the FQHC Site.

7. POST CLOSING COVENANTS. From the Closing Date and thereafter, IFH and the NGH Entities, as the case may be hereby covenant and warrant with respect to themselves as follows:

7.1 Expansion of IFH's Board of Trustees. IFH shall, so long as IFH is providing the Baseline Services and regardless of in which physical location, include two (2) new members on its board of trustees, one of whom shall be a current patient of the FQHC Site and one of whom shall be an individual from the East and Central Harlem communities.

7.2 Operation of FQHC Site. IFH shall establish a medical center at which it will provide clinical services and operations to replace the services and operations currently provided by the D&TC and incorporate the following services into its operation of the FQHC Site, as follows:

7.2.1 Scope of Clinical and Enabling Services. IFH shall offer at the FQHC Site a complement of primary care clinic and enabling services consistent with similar programs at the same level of quality provided by IFH at its other facilities and substantially equivalent to the existing clinic services provided at the D&TC, including the Other Outpatient Services currently provided by NGH, which services are listed on Exhibit D attached hereto (the "Baseline Services"); provided however, IFH has the discretion to alter such Baseline Services based upon its assessment of the needs of the East and Central Harlem communities. IFH shall provide the Baseline Services in compliance with all applicable law, rules, statutes, regulations, orders or decrees of any governmental entity. As long as the FQHC Site, regardless of its physical location, is in operation, IFH shall make publicly available its Uniform Data Set (UDS) annual report. Notwithstanding the foregoing, in the event of (i) any material reduction in the availability and amounts of grant monies currently or to-be provided to IFH in connection with the operation of the FQHC Site; (ii) a materially negative effect on the overall financial performance of the FQHC Site as a result of the provision of a particular Baseline Service; (iii) the inability to provide any Baseline Service due to the loss of providers suitable for such Baseline Service or (iv) any future agreement with NGH to reduce or eliminate any Baseline Service (any of the foregoing, collectively, referred to as a "**Negative Effect**"), then IFH shall discontinue the provision of the Baseline Service which has resulted in the Negative Effect.

7.2.2 Operations and Staff. IFH is not obligated to extend offers of employment to any employees of the D&TC. Any employment by IFH of any employee of the D&TC shall not be treated or deemed to constitute the continuation of employment of such employee for purposes of employment insurance, payroll taxes, benefit plans or any other purpose whatsoever.

7.3 Further Actions. To the extent that the consummation of the transactions described herein negatively impact NGH's tax-exempt status or the Bonds, IFH agrees to, upon the reasonable request of NGH, furnish to NGH any further information or enter into further agreements in order to satisfy any requirements imposed by the Dormitory Authority of the State

of New York, the New York State Department of Health or the Internal Revenue Code with respect to the Bonds and to carry out the intent of this Agreement, provided that IFH will not be required to enter into any further agreements that IFH deems, in its reasonable discretion, would have a material adverse effect on IFH or the FQHC Site.

7.4 Signage. IFH shall, consistent with FQHC laws and regulations and all other laws and regulations governing the D&TC, maintain on all signage, marketing materials, letterhead and the like, references to "Family Health Center at North General".

7.5 Operating Certificate. NG-D&TC shall surrender its operating certificate in accordance with applicable legal requirements.

8. MISCELLANEOUS

8.1 Survival. All representations, warranties, covenants and agreements made by NGH Entities with respect to the Purchased Assets contained in this Agreement, shall survive the closing of the transactions contemplated herein for a period of six months. All other covenants set forth in each subsection of Section 7, Section 8.10 and 8.11 shall survive the closing of the transaction contemplated herein for so long as the FQHC Site is in operation.

8.2 Further Assurances. At any time and from time to time after the date hereof, at a Party's request and without further consideration, each Party shall promptly execute and deliver all such further agreements, certificates, instruments and documents and perform such further actions as may be reasonably requested of it, in order to fully consummate the transactions contemplated hereby and carry out the purposes and intent of this Agreement.

8.3 Entire Understanding. This Agreement, together with the Exhibits and Schedules hereto and all other documents, instruments, certificates and agreements executed in connection herewith, states the entire understanding among the Parties hereto with respect to the subject matter hereof and supersedes all prior oral and written communications and agreements with respect to the subject matter hereof. This Agreement shall not be amended or modified except in a written document signed by all Parties hereto.

8.4 No Waivers. Except as otherwise expressly provided herein, no failure to exercise, delay in exercising, or single or partial exercise of any right, power or remedy by any Party hereto shall constitute a waiver thereof or shall preclude any other or further exercise of the same or any other right, power or remedy.

8.5 Counterparts. This Agreement may be executed in separate counterparts who, together, shall constitute one fully executed Agreement. Further, any Party may execute and/or deliver such Party's counterpart of this Agreement or signature page hereof by photocopy, telecopy (fax), e-mail or other form of copy or electronic transmission, and the other Parties shall be entitled to rely upon such counterpart (or any photocopy thereof or of an original executed counterpart) regardless by whom delivered and to enforce this Agreement as fully as if the same were the executed original thereof delivered personally by such party hereto to the other Parties.

8.6 Governing Law. This Agreement is made under, and shall be construed and enforced in accordance with the laws of the State of New York.

8.7 Termination. This Agreement may be terminated (i) by mutual agreement of the Parties, (ii) immediately by any Party if a Party has received a final denial, not subject to appeal, of one of the Health Consents; (iii) by any Party if the Closing Date shall not have occurred by July 31, 2010 (the "Termination Date"), provided that the failure of the Closing Date to occur by the Termination Date is not due to a breach by such Party; (iv) by IFH upon fifteen (15) days prior written notice in the event of any breach by either NGH Entity of this Agreement or a material adverse change to the Purchased Assets, (iv) by either NGH Entity upon fifteen (15) days prior written notice in the event of any breach by IFH of this Agreement; (v) by IFH upon fifteen (15) days prior written notice in the event NGH does not deliver the Demised Premises (as defined in the Lease) by the date set forth in the Lease or (vi) immediately by any Party if the Lease terminates for any reason or such other Party defaults under any term of the Lease.

8.8 Consent to Jurisdiction. Each of the Parties hereto irrevocably consents to the exclusive jurisdiction of the federal and state courts located in New York County, State of New York in any and all actions between or among any of the Parties hereto, with respect to the subject matter hereof, and waive any objection based on lack of jurisdiction, forum non conveniens, improper venue or otherwise to the jurisdiction of such courts.

8.9 Successors/Assigns. This Agreement shall be binding upon and inure to the benefits of NGH Entities and IFH and their respective successors and/or assigns, except that no Party hereto may assign or transfer any of its rights under this Agreement without the prior written consent of the other Party.

8.10 Public Benefit. The parties hereto agree that the terms of Section 7.2 herein are for the benefit and provisions of health care service to the Central and Eastern Harlem communities. Failure to carry out such terms will result in irreparable harm to the Central and East Harlem communities and therefore entitles NGH Entities to seek injunctive relief, including a temporary restraining order and/or preliminary injunction pending a trial regarding the issues in dispute.

8.11 License. Notwithstanding anything to the contrary contained in this Agreement, commencing July 6, 2010 (the "Transition Date") at 6 AM and expiring on the Closing Date at 5 PM, NGH grants to IFH an irrevocable license to utilize the Purchased Assets for the purposes of commencing the operations by IFH of the FQHC Site. IFH shall make reasonable efforts not to unnecessarily interfere with NGH's business in the Demised Premises (as defined in the Lease) during the license period and NGH shall make reasonable efforts not to unnecessarily interfere with IFH's operation of the FQHC Site. IFH agrees to defend, indemnify, protect and hold harmless NGH, and its directors, officers, employees and agents from and against any and all claims, demands, losses, costs, damages, expenses and liabilities, including reasonable attorneys' fees and disbursements, caused by, resulting from, arising out of, or occurring in connection with the use of the Purchased Assets by IFH during the license period; provided, however, that such indemnity and hold harmless will exclude damages arising solely out of NGH's gross negligence

or willful misconduct. The indemnity and hold harmless provisions of this section shall survive the expiration or termination of this Agreement.

8.12 Mutual Indemnification.

8.12.1 IFH shall indemnify and hold the NGH Entities, its successors and assigns, harmless from and against any and all damages, claims, costs (including reasonable attorney's fees), expenses and causes of action which may arise and accrue out of the operation of the FQHC Site after the Transition Date, regardless of when same are discovered or asserted. NGH Entities shall indemnify and hold IFH harmless from and against any and all damages, claims, costs (including reasonable attorney's fees), expenses and causes of action which may arise and accrue out of the operation of the D&TC prior to the Transition Date, regardless of when same are discovered or asserted.

8.12.2 The NGH Entities shall indemnify and hold harmless IFH for any and all claims, damages, costs, expenses, and causes of action that may arise concerning the employees of NGH, including but not limited to claims based on the collective bargaining agreement with 1199 SEIU United Healthcare Workers East labor union and any benefits, pension funds or other funds associated therewith and due thereunder.

8.12.3 If any party hereto (the "Indemnified Party") receives written notice of any claim or demand by a third party which might give rise to an obligation on the part of one of the other parties hereto (the "Indemnifying Party") under this Section 8.12 above, the Indemnified Party shall promptly notify the Indemnifying Party of the existence and the amount (to the extent alleged or otherwise determinable) of that claim or demand. The Indemnifying Party shall be entitled to participate in and to control (by legal counsel reasonably satisfactory to the Indemnified Party), the defense of a claim or demand at the expense of the Indemnifying Party. The Indemnified Party shall, at the expense of the Indemnified Party, be entitled to participate in any defense of any claim or demand controlled by the Indemnifying Party. This Section 8.11 shall survive the Closing Date.

8.13 Confidentiality. The Parties acknowledges that during the term of this Agreement, each will have access to certain confidential information of the other Party and its respective patients, including without limitation patient records, whether written, oral or electronic and other information not available to the public or in the public domain ("Confidential Information"). Each Party covenants and agrees that (i) it will keep secret all Confidential Information and will not, directly or indirectly, either during the term of this Agreement or at any time thereafter while such Confidential Information remains confidential, disclose or disseminate to anyone, or make use of, for any purpose whatsoever, such Confidential Information. Notwithstanding the foregoing (i) any Party, after giving prior notice to the other Party, may disclose such Confidential Information to the extent required by applicable laws or governmental regulations or judicial or regulatory process and (ii) any Party may disclose the terms of this Agreement to its attorney, accountant and/or financial advisor.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Definitive Agreement Regarding Asset Purchase and Services as of the date first above written.

NORTH GENERAL HOSPITAL

By: _____
Name:
Title:

NORTH GENERAL DIAGNOSTIC AND TREATMENT CENTER

By: _____
Name:
Title:

INSTITUTE FOR FAMILY HEALTH

By: _____
Name:
Title:

SCHEDULE 1.2.1
PURCHASED ASSETS

SCHEDULE 3.5

GOVERNMENT PROCEEDINGS

The New York State Office of the Medicaid Inspector General conducted an audit of the D&TC in connection with alleged improper billing practices which resulted in a preliminary penalty assessed against the D&TC of approximately \$3,000,000. The NGH Entities appealed the finding and the penalty and are awaiting a final determination.

SCHEDULE 3.6

NG-D&TC LITIGATION SCHEDULE

Mr. [REDACTED] as plaintiff, commenced an action in Supreme Court, New York County against the NGH Entities and Dr. [REDACTED] as defendants, in connection with an improperly performed [REDACTED] which led to a [REDACTED] and ultimately an [REDACTED]. [REDACTED] Original counsel to the defendants interposed an Answer. On June 4, 2010, a jury awarded a verdict of [REDACTED] in favor of Mr. [REDACTED] finding that NGH and Dr. [REDACTED] were each fifty percent liable for payment of the verdict. The Judge stayed entry of the judgment until August 15, 2010, by which date the parties hope to settle.

SCHEDULE 3.7

PAYOR MIX AND PATIENT VISITS

SCHEDULE 3.8

INSURANCE

SCHEDULE 4.4
GOVERNMENTAL PROCEEDINGS

None

SCHEDULE 4.5

IFH LITIGATION SCHEDULE

[REDACTED] as plaintiff, commenced a medical malpractice action against IFH and [REDACTED] as defendants, on November 17, 2008. The action is covered by the Federal Torts Claims Act.

[REDACTED] and [REDACTED] as plaintiffs, commenced a medical malpractice action against IFH [REDACTED] and [REDACTED] as defendants, on May 14, 2009. The action is covered by the Federal Torts Claims Act.

[REDACTED] as plaintiff, commenced a medical malpractice action against IFH and Dr. [REDACTED] as defendants, on May 8, 2008. The action is covered by the Federal Torts Claims Act.

[REDACTED] as plaintiff, commenced a medical malpractice action against IFH, as defendant, on May 12, 2010. The action will be submitted for coverage by the Federal Torts Claims Act.

[REDACTED] as plaintiff, commenced a medical malpractice action against IFH and [REDACTED] as defendants, on October 9, 2008. The action is covered by the Federal Torts Claims Act.

[REDACTED] as plaintiff, commenced a medical malpractice action against IFH and Dr. [REDACTED] as defendants, on September 7, 2006. The action is covered by the Federal Torts Claims Act.

1199SEIU United Healthcare Workers East filed an unfair labor practice charge against IFH on June 24, 2010. The charge involves IFH's impending operation of a health care facility at the FQHC Site.

SCHEDULE 6.1.4

NG-D&TC

HOSPITAL GRANTS

1. Grant provided by the United States Department of Health and Human Services, Health Resources and Services Administration (Palliative Care Grant) to NGH Entity in an amount equal to approximately \$577,174 per annum for the years 2009-2010, the proceeds of which are used to fund the HIV Program.
2. Grant provided by New York State Department of Health ("DOH") to NGH Entity in an amount equal to approximately \$664,846 per annum (\$752,954 with peer counseling and unallocated funding) for the years 2009-2010, the proceeds of which are used to fund the WIC Program.
3. Grant provided by DOH to NGH Entity in an amount equal to approximately \$71,611 per annum for the years 2007-2012, the proceeds of which are used to fund the School Base Health D&TC Center, PS 57.
4. Grant provided by National Center for Chronic Disease Prevention and Health Promotion to NGH Entity in an amount equal to approximately \$58,608 per annum for the years 2009-2010, the proceeds of which are used to fund the REACH Grant.
5. Grant provided by Centers for Medicare and Medicaid Services through Island Peer Review Organization to NGH Entity in an amount equal to approximately \$452,617 per annum for the years 2008-2011, the proceeds of which are used to fund the Diabetes Self-Management Education program.
6. Grant provided by New York City Department of Health through Public Health Solutions to NGH Entity in an amount equal to approximately \$608,750 per annum for the years 2009-2011, the proceeds of which are used to fund HIV Care Services.

EXHIBIT A

FORM OF LEASE AGREEMENT

EXHIBIT B

FORM OF MEDICAL RECORDS CUSTODY AGREEMENT

EXHIBIT C

FORM OF BILL OF SALE

EXHIBIT D

BASELINE SERVICES

1. Audiology
2. Family Planning
3. Non-Surgical Eye Care
4. Pediatric
5. Primary Medical Care
6. Dental
7. Health Education
8. Psychological
9. Electrocardiology
10. Podiatry
11. Well Child Care
12. Outpatient Mental Health
13. Special Services (HIV/AIDS)
14. Services provided under the Supplemental Nutrition Assistance Program for Women, Infants and Children

In addition, the Baseline Services include, without limitation, the services currently performed by the NG-D&TC under the Women's Health Clinic, the School Based Health Clinic and the Addiction Treatment Center.

EXHIBIT E

FORM PROMISSORY NOTE

IN WITNESS WHEREOF, the Parties have executed this Definitive Agreement
Regarding Asset Purchase and Services as of the date first above written.

NORTH GENERAL HOSPITAL

By: 

Name: John P. Maher
Title: Executive VP/CEO

**NORTH GENERAL DIAGNOSTIC AND
TREATMENT CENTER**

By: 

Name: Samuel J. Daniel, M.D.
Title: President/CEO

INSTITUTE FOR FAMILY HEALTH

By: _____

Name: Neil Calman, M.D.
Title: President

IN WITNESS WHEREOF, the Parties have executed this Definitive Agreement
Regarding Asset Purchase and Services as of the date first above written.

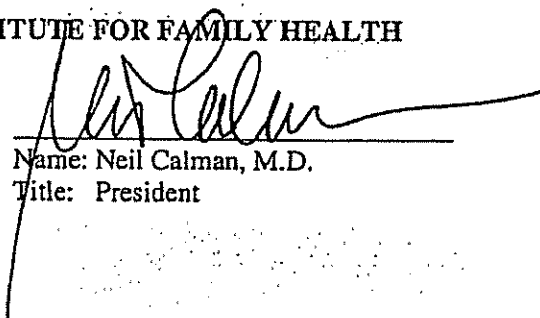
NORTH GENERAL HOSPITAL

By: _____
Name: Samuel J. Daniel, M.D.
Title: President & CEO

**NORTH GENERAL DIAGNOSTIC AND
TREATMENT CENTER**

By: _____
Name:
Title:

INSTITUTE FOR FAMILY HEALTH

By: 
Name: Neil Calman, M.D.
Title: President

NORTH GENERAL HOSPITAL
1879 Madison Avenue
New York, NY 10035

July 1, 2010

The Institute for Family Health
16 East 16th Street
New York, NY 10003
Attention: Dr. Neil Calman


Re: Asset Purchase Agreement and Lease Transactions

Dear Dr. Calman:


In connection with the Transaction (as defined below) including with respect to the properties at 1879 Madison Avenue, New York, NY and 1826 Madison Avenue, New York NY (the "Properties"), North General Hospital ("NGH") and The Institute for Family Health ("IFH") hereby acknowledge that NGH intends to file a petition under chapter 11 of the United States Bankruptcy Code on or about July 2, 2010 with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). NGH agrees to vacate the portions of the Properties (the "Premises") that are leased to IFH, pursuant to leases dated July 1, 2010 (the "Leases") not later than July 6, 2010. NGH agrees to promptly file all motions and applications with the Bankruptcy Court necessary or convenient for approval of the Leases and that certain Definitive Agreement Regarding Asset Purchase and Services, by and among NGH, IFH and North General Diagnostic and Treatment Center, dated July 1, 2010, (the "Agreement") (collectively, the "Transaction"), including, without limitation, motions under sections 363 and 365 of the United States Bankruptcy Code to assume the Leases and for approval of the sale of certain assets identified in the Agreement (the "Assets") to IFH pursuant to the Agreement, such that the Transaction shall close as provided in the Agreement. NGH shall file such motions at the earliest practicable opportunity, but in no event later than July 7, 2010. NGH shall diligently prosecute such motions and shall use its best efforts to obtain the earliest possible hearing date. NGH hereby grants to IFH an exclusive, nonrevocable license to use the Assets through the Closing. NGH will also use its best efforts to ensure that the Order will include a provision, reasonably satisfactory to IFH, prohibiting successor liability claims against IFH and finding IFH to be a good faith purchaser pursuant to Bankruptcy Code section 363(m). IFH hereby confirms that pursuant to the Leases it has granted NGH an exclusive, nonrevocable, non-assignable license to access the Premises through July 6, 2010 for the sole purpose of removing personal property that it is permitted to remove therefrom and otherwise vacating the Premises on the terms set forth in the Leases.

Upon execution and delivery of counterparts of this letter, this letter shall be the binding agreement of the parties hereto.

North General Hospital,
a New York not-for-profit
corporation

By: 
Name:
Title:

The Institute for Family Health,
a New York not-for-profit
corporation

By: 
Name: Ned Alman
Title: President & CEO

NORTH GENERAL HOSPITAL
1879 Madison Avenue
New York, NY 10035

July 1, 2010

The Institute for Family Health
16 East 16th Street
New York, NY 10003
Attention: Dr. Neil Calman

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Upon execution and delivery of counterparts of this letter, this letter shall be the binding agreement of the parties hereto.

North General Hospital,
a New York not-for-profit
corporation

By: _____
Name:
Title:

The Institute for Family Health,
a New York not-for-profit
corporation

By: 
Name: Ned Calman
Title: President & CEO

STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

July 1, 2010

Neil Calman, M.D.
President and CEO
Institute for Family Health
16 East 16th Street
New York, New York 10003

RE: NORTH GENERAL FAMILY HEALTH CENTER

Dear Dr. Calman:

We are pleased to inform you that your facility has been selected to receive an award under the Health Care Efficiency and Affordability Law for New Yorkers (HEAL NY) Grant Program. This grant is to address the urgent public health need for primary care health services in Harlem. The award is to provide urgent and continuous outpatient care through the operation of a Federally Qualified Health Center at the site of the former North General Hospital diagnosis and treatment center. This award is contingent upon approval of the Office of the State Comptroller.

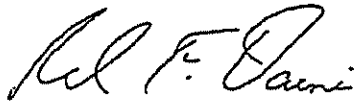
Please note this letter is not a commitment to provide funds, but may assist you in finalizing other sources of funding required to complete your project. The amount of your award, is shown on the enclosed form, "HEAL NY Grant Award Notification."

A Grant Disbursement Agreement (GDA) package will be mailed to you under a separate cover. The workplan, budget and timeline submitted with your grant application will become part of the GDA. Any costs the New York State Department of Health (Department of Health) has determined to be eligible and allowed for reimbursement within the contract period shall be finalized prior to the execution of a GDA with the Department of Health. The approved project budget and workplan will become contract appendices in the executed GDA.

Please return the completed and signed GDA within 30 days after the date it is sent to you. Your grant award will not be final until your GDA has been approved by the Department of Health, the New York State Attorney General and the Office of the State Comptroller. This award letter will expire 90 days after issuance and, upon termination, the Department of Health and the Dormitory Authority reserve the right to reallocate the funds to other applicants.

Should you have any questions regarding this information, please contact Mr. Robert Schmidt, via e-mail at rgs05@health.state.ny.us or by phone at (518) 474-5565. You may also contact Ms. Janice Dee at (518) 474-5565. Again, congratulations on the receipt of this grant award.

Sincerely,



Richard F. Daines, M.D.
Commissioner of Health



Paul T. Williams, Jr.
Executive Director, DASNY



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

NYS Department of Health

HEAL NY Grant Award Notification
Phase 19

Applicant Name: Institute for Family Health
Neil Calman, MD
President & CEO
New York, NY

Applicant Contact: Dr. Neil Calman

Applicant Phone: (212) 633-0800
Applicant Fax: (212) 691-4610
Applicant Email: ncalman@institute2000.org

Project Name: NORTH GENERAL FAMILY HEALTH CENTER

Requested Grant Amount: \$10,000,000

Award Amount Adjustment: \$0

Grant Award: \$10,000,000

FEE REQUIRED

THIS CHECK IS VOID WITHOUT A GREEN BACKGROUND AND A TRUE WATERMARK - HOLD UP TO THE LIGHT TO VERIFY



THE INSTITUTE FOR FAMILY HEALTH
19 WEST 21ST STREET - SUITE 504
NEW YORK, NY 10010

JPMorgan Chase Bank, N.A.
Fifth Avenue at 14th Street
New York, NY 10011

074337
12
210 25

THE INSTITUTE
FOR
FAMILY HEALTH

PAY TO THE ORDER OF NEW YORK STATE DEPT OF HEALTH

DATE: 8/13/2010

\$ *****1,061.00*

ONE THOUSAND SIXTY-ONE AND XX/100

NEW YORK STATE DEPT OF HEALTH

CHECK IS PRINTED ON SECURITY PAPER WHICH INCLUDES A MICROPRINT BORDER & FLUORESCENT FIBER

⑈074337⑈ ⑆021000021⑆ [REDACTED]

EMERGENCY APPROVAL LETTER 7/1/10		CON Request 6/22/10		DOH 60 DAY LETTER 7/26/10	
1879 Madison Avenue	1824 Madison Avenue	17C-2 Project Utilization	17C-1 Operating Certificate	1879 Madison Avenue	1824 Madison Avenue
Cardiology		Cardiology			
Dental		Dental	Dental	Dental	
Dermatology		Dermatology			
ENT		ENT			
Gastroenterology		Gastroenterology			
Gynecology/Prenatal	Gynecology/Prenatal	Gynecology/Prenatal	Prenatal	Prenatal	GYN/Prenatal
			Family Planning	Family Planning	
Hepatology		Hepatology			
HIV Care	HIV Care	HIV Clinic			
Mental Health	Mental Health	Mental Health Clinic	Cert. Mental Health	Cert. Mental Health	Mental Health
			Psychology	Psychology	
			Medical Social Services	Medical Social Services	
Nephrology	Nephrology	Nephrology			
Neurology		Neurology			
Ophthalmology	Ophthalmology	Ophthalmology	Ophthalmology	Ophthalmology	Ophthalmology
Oral Surgery					
Orthopedics		Orthopedics			
Pediatrics		Pediatrics	Pediatrics	Pediatrics	
			Well Child	Well Child	
Podiatry		Podiatry	Podiatry	Podiatry	
Primary Care	Primary Care	Primary Care	Primary Medical Care	Primary Medical Care	Primary Medical Care
Rehab Medicine		Rehab Medicine	Physical Medicine Rehab	Physical Medicine Rehab	
Urology		Urology			
		ATC			
		Hematology			
			Audiology	Audiology	
			Clinical Lab OP	Clinical Lab OP	
			Diagnostic Radiology	Diagnostic Radiology	
			Part-Time Clinic	Part-Time Clinic	
School Based Health Center 176 East 115th		SBHC			
Primary Care					
Pediatrics					
Mental Health					



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

July 26, 2010

Mr. Edward Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

Re: 101115 - C
Institute for Urban Family Health
(New York County)
Acquire the operations of North General
Diagnostic and Treatment Center, Inc.
"Safety Net"
(\$426,627)

Dear Mr. Fried:

The Department of Health approves the above application in accordance with the administrative review provisions set forth in 10 NYCRR section 710.1(c)(3). Approval of this application is subject to the enclosed contingencies first being satisfied.

Three (3) copies of documentation that addresses these contingencies must be sent, within sixty (60) days of receipt of this letter, to the:

Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
NYS Department of Health
433 River Street, 6th Floor
Troy, New York 12180-2299
(518) 402-0911

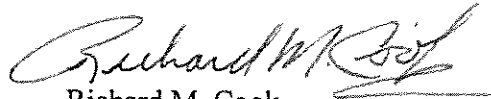
Failure to meet the 60-day deadline could result in this project being deemed abandoned as set forth in 10 NYCRR section 710.10(c)(1).

Pursuant to the provisions of 10 NYCRR Parts 86 and 710, you may not begin the construction or operation of any aspect of this project, or receive reimbursement for costs associated with this project, unless all required written approvals are obtained. Before beginning any aspect of this project, you must submit written materials to satisfy the enclosed contingencies and receive written approval from the Division of Health Facility Planning (DHFP) indicating the satisfaction of all contingencies.

You are responsible for ensuring that this project complies with all applicable statutes, codes, rules and regulations. Should violations be found when reviewing documents, or at the time of on-site inspections or surveys, you will be required to correct them. Additional costs incurred to address any violations will not be eligible for reimbursement without the prior approval of the Department. Also, in accordance with 10 NYCRR section 710.5, any change in the scope of this project requires prior approval from the Department and may require a new or amended application.

If you have any questions concerning this letter, please contact the Bureau of Project Management at (518) 402-0911.

Sincerely,



Richard M. Cook
Deputy Commissioner
Office of Health Systems Management

Enclosure

CONTINGENCIES:

1. Submission of an executed building lease acceptable to the Department of Health. [BFA]
2. Submission of the executed HEAL NY Discretionary grant contract. [BFA]
3. Submission of a check for the amount of \$1,061, payable to the New York State Department of Health. Pursuant to Chapter 58 of the Laws of 2009, applications submitted for administrative review shall pay a fee of thirty hundredths of one percent of the total capital value of the project, exclusive of the CON application fee, if any. [PMU]

BEDS AND/OR SERVICES APPROVED

Site #1	Services Approved
1879 Madison Avenue	Audiology O/P
New York	Certified Mental Health O/P
	Part-Time Clinic
	Clinic Laboratory O/P
	Dental O/P
	Family Planning O/P
	Medical Social Services O/P
	Ophthalmology O/P
	Pediatrics O/P
	Physical Medicine Rehab O/P
	Podiatrics O/P
	Prenatal O/P
	Primary Medical Care O/P
	Psychology O/P
	Diagnostic Radiology O/P
	Well Child

Site #2	Services Approved
1824 Madison Avenue	Primary Medical Care O/P
New York	Ophthalmology O/P
	GYN
	Prenatal O/P
	Certified Mental Health O/P



"Fried, Edward"
<efried@institute2000.org>
07/20/2010 09:33 AM

To: Jeffrey M Spitz <jms26@health.state.ny.us>
cc: "Ruth W. Leslie" <rwl01@health.state.ny.us>, "Agnes M. Larson" <aml07@health.state.ny.us>, "Jeffrey R. Rothman" <jrr03@health.state.ny.us>, "Calman, Neil" <ncalman@institute2000.org>
Subject: RE: EA- IFH

Thank you Jeff (Spitz) for making these adjustments so quickly.

Dear Jeff Rothman

We are advised that zip+4 consistency is essential to support MMIS Medicaid payments. Can you assure that the CON process is similarly adjusted to include the zip+4 now on the Emergency Approval Letter (attached) for the three addresses associated with this application, review and approval?

Thanks
Eddy

Edward M. Fried
Sr. Vice President for Administration
Institute for Family Health
212-633-0800 x 1235 office
[REDACTED] cell

From: Jeffrey M Spitz [mailto:jms26@health.state.ny.us]
Sent: Tuesday, July 20, 2010 8:47 AM
To: Fried, Edward
Cc: Ruth W. Leslie; Agnes M. Larson; Jeffrey R. Rothman

Subject: EA- IFH

Hi Ed, As discussed, I have corrected the EA letter with the correct zip codes. Thanks for bringing this to my attention.

Jeffrey Spitz, LCSW
Regional Program Director
NYS Department of Health
Bureau of Hospital and Primary Care Services
90 Church Street- 15th Floor
New York, NY 10007
212-417-5990 Fax: 212-417-5914
E-Mail: jms26@health.state.ny.us

(See attached file: EA- IFH.doc)

IMPORTANT NOTICE: This e-mail and any attachments may contain confidential or sensitive information which is, or may be, legally privileged or otherwise protected by law from further disclosure. It is intended only for the addressee. If you received this in error or from someone who was not authorized to send it to you, please do not distribute, copy or use it or any attachments. Please notify the sender immediately by reply e-mail and delete



this from your system. Thank you for your cooperation. EA-IFH.DOC



STATE OF NEW YORK DEPARTMENT OF HEALTH

Metropolitan Area Regional Office
90 Church Street New York, New York 10007

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

July 1, 2010

Mr. Edward Fried
The Institute for Family Health
16 East 16th Street
New York, NY 10003

Dear Mr. Fried:

The New York State Department of Health Metropolitan Area Regional Office is responding to the letter dated June 29, 2010 for The Institute for Family Health to receive emergency approval to operate the following Article 28 Diagnostic and Treatment Centers, with the services being provided, that were transferred from North General Hospital as a result of their closure:

- 1879 Madison Avenue, NY, NY 10035-2709
Primary care, pediatrics, HIV care, Podiatry, Gynecology/Prenatal, Dental, Oral Surgery, Mental Health, Orthopedics, Rehabilitation Medicine, Gastroenterology, Cardiology, Hepatology, Neurology, Urology, Dermatology, ENT, Kidney/Hypertension (aka Nephrology), Ophthalmology
- 1824 Madison Avenue ("The Annex"), NY, NY 10035-3832
HIV Care, Primary Care, Ophthalmology, Gynecology/Prenatal, Nephrology, Mental Health
- 176 East 115th Street (School Based Health Center), NY, NY 10029-2031
Primary Care, Pediatrics, Mental Health

The emergency approval is approved effective beginning of business on July 6, 2010.

CON #101115-C has been received and is under review. Please notify this office when you receive the certificate of Need approval so that a revised operating certificate can be issued.

If you have any further questions regarding this matter, please contact our office at (212) 417-5990.

Sincerely,

Jeffrey Spitz, LCSW
Regional Hospital Program Director
Bureau of Acute and Primary Care Services Unit, MARO

101115 Need Analysis
The Institute for Urban Family Health

Project Description

The Institute for Family Health (The Institute), a D&TC in New York, NY, seeks approval to assume operation of an existing D&TC, North General Diagnostic and Treatment Center, (Family Health Center). The Family Health Center is affiliated with North General Hospital.

Need Summary

Contingent approval is being recommended because this project is currently in existence and serving the residents of the area.

Background

The Institute is a D&TC with a main site, 13 extension clinics and one school based clinic. The Institute is a federally qualified health center, and plans to seek FQHC status for its newly acquired extension clinics.

The Family Health Center, located at 1879 Madison Avenue, is certified for audiology, dental, family planning optometry, outpatient surgery, pediatrics, physical medicine and rehabilitation, podiatry, prenatal, primary medical care, psychology, therapy – occupational, therapy – physical, therapy - speech language pathology, therapy - vocational rehabilitation, and well child care.

The Family Health Center also operates 2 extension clinics, a school based clinic at PS 57, and an addiction treatment program at 1824 Madison Ave. The Institute plans to take over operation of both extension clinics.

Note that North General Hospital is also located at 1879 Madison Avenue. The change of operator for these two entities is related to the pending restructuring of the hospital due to its financial difficulties.

Analysis

For most services, there will be no significant changes in staffing levels, or service volumes.

However, outpatient surgery (general surgery and the outpatient plastic surgery programs,) will be discontinued after the Institute assumes operation.

Physical, occupational, and vocational therapy and speech language pathology will no longer be certified at the Family Health Center after the transition.

The Family Health Center will be staffed by 14.3 FTE physicians, 4.5 FTE nurse practitioners, and 14 FTE social workers and psychologists.

The Institute is requesting one minor service addition by adding Ophthalmology at the Family Health Center.

The applicant reports that the facility will provide 82,225 visits per year.

Below is a breakdown of service utilization as reported by the Institute:

<i>Type of Service</i>	<i>Current Year</i>	<i>1st Year</i>	<i>3rd Year</i>
Primary Care	20,840	20,840	20,840
Pediatrics	8,618	8,618	8,618
Podiatry	4,354	4,354	4,354

Gynecological	4,205	4,205	4,205
ATC(Alcohol Treatment Center – at extension clinic)	5,710	5,710	5,710
Dental	4,533	4,533	4,533
Mental Health Clinic	9,467	15,000	15,000
HIV Clinic	6,822	6,822	6,822
School based Health Center (extension clinic at PS 57)	1,157	1,157	1,157
Orthopedics	2,570	2,570	2,570
Rehab Medicine	1,544	1,544	1,544
Gastroenterology	1,347	1,347	1,347
Hepatology	864	864	864
Cardiology	1,279	1,279	1,279
Neurology	1,435	1,435	1,435
Urology	1,313	1,313	1,313
Dermatology	1,037	1,037	1,037
ENT	1,028	1,028	1,028
Kidney/Hypertension	865	865	865
Ophthalmology	678	678	678
Hematology	1,259	1,259	1,259
Cancer Care (Ralph Lauren Cancer Center)	13,464	13,464	13,464
Infusion	5,113	5,113	5,113
Other Procedures	1,342	1,342	1,342
Total Visits:	100,844	106,377	106,377

The facility has an existing patient base. Except for outpatient surgery and therapy, the new operator will continue services at their present levels, and will continue to care for existing patients.

Conclusion

From a need perspective, approval is recommended.

Attachments:

- 1) A map of the proposed service area.

101115 Need Analysis
The Institute for Urban Family Health

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**101115 Need Analysis
North General Family Health Center**

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Attachments:

- 1) A map of the proposed service area.



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

June 24, 2010

Mr. Edward M. Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

Re: ~~101115 E~~
Institute for Urban Family Health
(New York County)
Acquire the operations of North General
Diagnostic and Treatment Center, Inc.
and the Ralph Lauren Center for Cancer
Care and Prevention
Revised: June 23, 2010 -
Delete Ralph Lauren Center acquisition
"Safety Net"

Dear Mr. Fried:

We have received your revision to the CON application referenced above and it is being distributed to all reviewing units via a copy of this letter.

Subsequent to this letter, you may receive requests for additional information from OHSM and/or the Health Systems Agency. Please note that you must respond within the time frame allotted or risk withdrawal of the application from further processing. In addition, you may voluntarily submit any additional information, which you believe, might facilitate the review of your proposal, unless specific deadlines have otherwise been established. Any such submission should consist of eight (8) copies of the material to be reviewed.

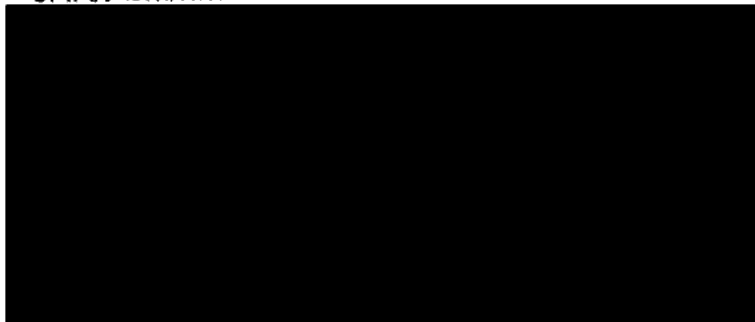
Should you require assistance regarding this application, please contact the Bureau of Project Management at (518) 402-0911.

Sincerely,

Jeffrey R. Rothman, M.S., M.B.A.
Director
Bureau of Project Management

JRR/KJM/nm

JRR/KJM/nm



THE INSTITUTE FOR FAMILY HEALTH

**CERTIFICATE OF NEED
APPLICATION**

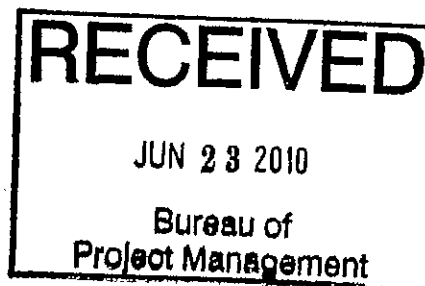
**NORTH GENERAL
FAMILY HEALTH
CENTER**

**Revised
June 22, 2010**



June 22, 2010

Jeffrey Rothman, Director
Bureau of Project Management
Division of Health Facility Planning
Office of Health Systems Management
New York State Department of Health
Hedley Park Place
433 River Street, 6th Floor
Troy, New York 12180-2299



Re: Project 101115-E
Re: Revised CON Application, North General Family Health Center
(New York County)

Dear Mr. Rothman

Following your recommendations and our conference call of Friday, June 18, we are hereby submitting for review and approval, a revised Certificate of Need application entitled, "North General Family Health Center." We have removed the Ralph Lauren Cancer Center from the project at this time. The Institute for Family Health will be assuming operating responsibilities for the ambulatory clinics of North General Hospital (NGH), the NGH School Based Health Center at PS #57 and one clinic located in a separate building known as the Annex.

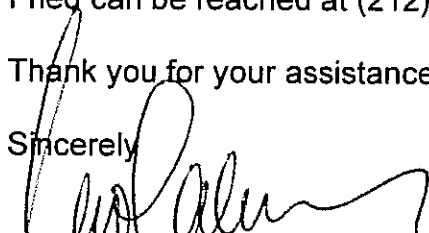
Included within is our response to the 30 Day Letter dated June 10, 2010 which has been discussed with Mr. Bill Lindenman.

This submission includes an original and eight copies.

I can be reached at 917-613-0100 or ncalman@institute2000.org. Mr. Edward Fried can be reached at (212) 633-0800 Ext. 1235 or efried@institute2000.org

Thank you for your assistance in this matter.

Sincerely



Neil S. Calman, MD
President and CEO

72674

June 22, 2010 Response to 30 Day Letter

DOH Issued: June 10, 2010

Received: June 18, 2010

Project: 101115-E

North General Family Health Center
(New York County)

The following questions have been prepared by the Bureau of Financial Analysis, if additional information is needed; please contact Bill Lindenman at (518) 402-0953.

1. Please provide 2009 Certified Financial Statements for The Institute for Family Health, Inc. Also, provide the latest 2010 internal financial statements. If applicable, address the reason(s) for the losses and steps implemented to improve operations.

Attached are the Year End 2009 and the April 2010 Internal Financial Statements

2. Please provide written confirmation or commitment for the Heal grant. Please breakout the components of the Heal grant such as; purchase of equipment, working capital; financial support for labor etc. and the length of the support.

Official notice of the HEAL Grant is pending from the Department of Health.

The HEAL budget is:

First Year:

Equipment Purchase	\$ 600,000	
Working Capital *	\$2,400,000	
First Year Operations	<u>\$4,000,000</u>	
Total First Year		\$ 7,000,000
Second Year Operations		<u>\$ 3,000,000</u>
Total HEAL Grant		\$10,000,000

*** Working Capital for 80 day start up collection lag.**

3. Please provide written confirmation or commitment from Polo Ralph Lauren Corporation and Sloan Kettering Cancer Center for their financial assistance. Please provide the details as to: amount; use, working capital and/or operating loss, and the time frame for the support. Please describe how the losses and working capital needs will be shared between Polo Ralph Lauren Corporation, Sloan Kettering Cancer Center, and The Institute for Family Health, Inc.

The Ralph Lauren Cancer Center has been removed from this application.

4. Will the Memorial Sloan-Kettering Cancer Center (MSKCC) continue be involved in the Ralph Lauren Center for Cancer Care & Prevention, if so please provide further details.

The Ralph Lauren Cancer Center has been removed from this application.

5. Please provide Schedule 13D, Annual Operating Revenues, for the current year, 1st and 3rd years,

We have completed Schedule 13D-4 and it is filed within the Revised CON submission herein.

- Please explain any differences in revenues between years by payors;
 - > Note it appears some of the non-operating income on Schedule 17E, D&TC Statement of Revenue, should be considered working capital. Based upon the department's policy of two months of third year expenses, working capital should be approximately \$3,965,910. Thus this amount would be excluded from non-operating revenues leaving expenses exceeding revenues in nearly the same amount. *Is there any way this short fall can be covered?*

Based on revised submission there is no longer a short fall.

- Please explain any differences in visits between years by payors –

The difference in visits between the payors is driven by the payor mix by visits for each clinic as provided by North General Hospital. We did not produce this data, so cannot apply our normal growth. We are committing to achieving the volume stated and will have internally tested and trusted data in a year.

- > Note according to Schedule 17C, Projected Utilization of Services, the only change was in the line item "Mental Health Clinic" which went from 9,467 visits in the current year to 15,000 visits.

Upon review Mental Health visits are currently at 10,500 and will be sustained at that level.

6. Please confirm Schedule 13C, Annual Operating Expenses -

- Current Year Column - represents costs to operate the following facilities
 - > North General Diagnostic & Treatment Center at 1879 Madison Avenue
 - > Addiction Treatment Center at 1824 Madison Ave
 - > School Based Diagnostic & Treatment Center at PS 57 176 East 115th St
 - > Ralph Lauren Center for Cancer Care & Prevention at 1919 Madison Ave

We used the "Current" column to represent the costs of the Institute for Family Health prior to assuming responsibility for NGH Family Health Center. (NGH data was not available.)

Ralph Lauren Center for Cancer Care has been removed from this application.

- 1st and 3rd Year columns entitled "incremental Cost Impact" - are for the "Total Costs" to run the programs for the 1st and 3rd years in the following locations -
 - > D&TC at 1879 Madison Avenue
 - > Addiction Treatment Center at 1824 Madison Ave
 - > School Based Diagnostic & Treatment Center at PS 57 176 East 115th St
 - > Ralph Lauren Center for Cancer Care & Prevention at 1919 Madison Ave

Ralph Lauren Center for Cancer Care has been removed from this application.

7. Reference Schedule 17 D-1 D&TC Allocation of Operating Cost - Please provide the reasons why the functional operating costs declined by \$33,436,642, going from \$56,096,091 in the current year to \$22,659,449 by the completion of the 1st year. Also address the reduction in staffing levels as shown on Schedule 13 B.

Current Yr- North General	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distribution
Administration	7,560,852	1,482,191	823,544	814,423	1,040,987	817,342	12,539,339
Medical	19,904,827	3,902,043	2,168,077	1,803,863	2,740,519	2,151,749	32,671,078
Dental	916,412	179,649	99,818	83,049	126,173	99,066	1,504,167
Mental Health	3,488,285	683,826	379,952	316,124	480,271	377,090	5,725,548
Other Health	2,227,390	436,646	242,612	201,856	306,670	240,785	3,655,959
Total North General	34,097,766	6,684,355	3,714,003	3,219,315	4,694,620	3,686,032	56,096,091
1st Year-Institute Family Health	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distribution
Administration	0	0	0	0	0	0	0
Medical	3,468,345	1,147,564	0	467	3,148,979	342,183	8,107,538
Dental	416,187	137,703	0	47	316,462	34,388	904,787
Mental Health	811,663	268,553	0	109	733,035	79,655	1,893,015
Other Health	3,995,776	968,225	509,000	1,237,229	4,466,986	576,893	11,754,109
Total Institute Family Health	8,691,971	2,522,045	509,000	1,237,852	8,665,462	1,033,119	22,659,449
Difference between Curr Year and 1st Year-	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distribution
Administration	(7,560,852)	(1,482,191)	(823,544)	(814,423)	(1,040,987)	(817,342)	(12,539,339)
Medical	(16,436,482)	(2,754,479)	(2,168,077)	(1,803,396)	408,460	(1,809,566)	(24,563,640)
Dental	(500,225)	(41,946)	(99,818)	(83,002)	190,289	(64,678)	(599,380)
Mental Health	(2,676,622)	(415,273)	(379,952)	(316,015)	252,764	(297,435)	(3,832,533)
Other Health	1,768,386	531,579	266,388	1,035,373	4,160,316	336,108	8,098,150
Total of the Differences	(25,405,795)	(4,162,310)	(3,205,003)	(1,981,463)	3,970,842	(2,652,913)	(33,436,742)

We used the "Current" column to represent the costs of the Institute for Family Health prior to assuming responsibility for NGH Family Health Center. (NGH data was not available.)

8. Please confirm your leasing arrangements

- 1879 Madison Ave - Lease is for one (1) year in length with one (1) renewal option for 5 years.

Article 1, section 1.03 provides for a first term of two years, with options years 3 to 8. Collaborative planning is contingent upon funding to renovate the Annex building at 1824 Madison Ave and move our entire operation into that building and out of the NGH Hospital building. Renewal options were provided should the funding for this renovation not be awarded.

> Do you plan on exercising this renewal option?

As above.

- 1919 Madison Ave - Lease ends July 31,2012
 - > What is the Annual Rent for 2011 and 2012?
 - > Is there a renewal option, and if so what is it? And do you plan on exercising it?
 - > What is the square footage?

Ralph Lauren Center for Cancer Care has been removed from this application.

- Reference the proposed lease at 1879 Madison Ave - please explain Section 1.08 where it talks about entering into a "ground lease" for the annex building located at 1824 Madison Ave. Also, please provide the terms including any additional rent, utilities, etc. and square footage.

As above in this question 8, a two year plan includes moving this operation from the NGH Building into the Annex. Details regarding the ground lease and allocated cost have not been resolved at this time.

9. What is the basis for expense and utilization assumptions?

Utilization assumptions were based entirely on data provided by North General Hospital. Expense assumptions were based upon formulas and experience derived from operation of 15 extension clinics.

10. Please provide Schedules 3b, Basic Legal Information and Documentation and Schedule 4 Legal Information for Ownership Transfer.

We have requested a waiver on the presentation based upon the accepted submissions from two previous similar DOH approved

transfers of operating authority.

11. Will you be operating under an assumed name, if so please provide the proposed documentation?

We will not be operating under an assumed name. Each of our extension clinics have unique names and are operated as departments of the The Institute for Family Health.

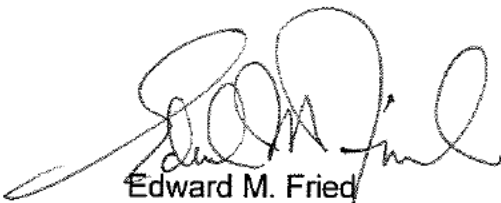
12. Will you be entering into any Management or Administrative Agreements, if so please provide a copy of the proposed agreement?

We will not be entering into any Management or Administrative Agreements.

14. Schedule 8B, Total Project Cost, please provide the start and expected completion dates. Also, as of April 1, 2009 the fees have changed - The application Fee on Line 9.2 for a "Safety Net" facility under full review is .0045 of Line 8 or \$1,909 (Line 8 \$424,316 x .0045=\$1,909). Please revise Schedule 8B and Schedule 9.

We have accepted this formula and adjusted Schedules 8B and 9 and 1A accordingly.

We hope you find these replies sufficiently responsive. Should you have any questions or concerns, please immediately contact Edward Fried.



Edward M. Fried
Sr. Vice President for Administration
212-633-0800 x 1235 (office)
[REDACTED] (cell)
efried@institute2000.org.

Submitted June 22, 2010

The Institute for Family Health, Inc.

Balance Sheet
December 31, 2009

ASSETS

Current Assets:

Cash and cash equivalents	\$	6,084,928
Patient services receivable, net of allowances of approximately \$14,768,000 (Notes 2 and 3)		10,106,303
Grant and contract receivables (Note 4)		3,011,399
Hospital service contracts receivable		263,942
Other receivables (Note 5)		1,049,871
Prepaid expenses and other current assets		260,640

Total current assets 20,777,083

Goodwill (Note 2) 2,998,806

Deferred Bond Issue Cost (Note 6) 685,658

Debt Service Reserve Fund (Note 8) 849,885

Property and Equipment, net (Notes 7 and 8) 6,789,396

Total assets \$ 32,100,828

LIABILITIES AND UNRESTRICTED NET ASSETS

Current Liabilities:

Accounts payable and accrued expenses	\$	4,507,931
Accrued compensation		2,132,620
Current maturities of long-term debt (Note 9)		458,036
Line of Credit (Note 8)		685,706
Refundable advances (Note 10)		1,547,651

Total current liabilities 9,331,944

Long-term Debt, less current maturities (Note 9) 7,726,626

Total liabilities 17,058,570

Commitments and Contingencies (Notes 14 and 15)

Unrestricted Net Assets 15,042,258

Total liabilities and unrestricted net assets \$ 32,100,828

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Operations and Changes in Net Assets
Year Ended December 31, 2009

Revenue:	
Patient services, net (Note 11)	\$ 35,858,577
Hospital service contracts (Note 12)	4,956,612
Grants and contracts (Note 13)	16,892,861
Management fees	115,882
Interest income	3,702
Other	174,760
	<hr/>
Total revenue	58,002,394
Expenses:	
Salaries and benefits	39,705,321
Other than personnel services	14,266,574
Interest	576,959
Provision for bad debts	2,027,466
	<hr/>
Total expenses	56,576,320
Operating income prior to depreciation and amortization	1,426,074
Depreciation and amortization	702,717
	<hr/>
Operating income	723,357
Unrestricted net assets:	
Beginning	14,318,901
	<hr/>
Ending	\$ 15,042,258
	<hr/>

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Functional Expenses
Year Ended December 31, 2009

	Program Services	General and Administrative	Total
Salaries and wages	\$ 27,552,791	\$ 5,486,484	\$ 33,039,275
Fringe benefits	6,014,608	651,438	6,666,046
Consultants and contractual services	3,895,805	810,850	4,706,655
Professional fees	4,927	380,789	385,716
Travel, conferences and meetings	367,101	82,037	449,138
Occupancy	2,352,490	979,201	3,331,691
Consumable supplies	3,519,836	-	3,519,836
Insurance	321,521	-	321,521
Equipment rental and maintenance	393,772	71,670	465,442
Postage	84,564	76,382	160,946
Dues, subscriptions and publications	222,169	42,124	264,293
Interest	374,979	201,980	576,959
Provision for bad debts	2,027,466	-	2,027,466
Other	233,434	427,902	661,336
	<u>47,365,463</u>	<u>9,210,857</u>	<u>56,576,320</u>
Depreciation and amortization	558,530	144,187	702,717
	<u>47,923,993</u>	<u>9,355,044</u>	<u>\$ 57,279,037</u>

See Notes to Financial Statements.

**THE INSTITUTE FOR FAMILY HEALTH
BALANCE SHEET**

Line #		April 30 2010	March 31 2010	April 30 2009
1	Current Assets:			
2	Cash	4,913,352	5,181,976	4,067,916
3	Investments at fair value	291	291	291
4	Patient accounts receivable, net	11,199,900	10,629,002	11,303,324
5	Grants receivable	2,916,813	3,053,573	2,713,147
6	Hospital service contracts receivable	280,524	273,724	276,762
7	Other receivable	330,330	460,364	1,234,803
8	Prepaid expenses and other current assets	871,387	701,557	311,582
9	Total current assets	<u>20,512,597</u>	<u>20,300,487</u>	<u>19,907,825</u>
10	Goodwill	2,998,806	2,998,806	2,998,806
11	Deferred Issue Bond Cost	675,548	675,548	712,618
12	Debt Service Reserve Fund	847,152	847,152	847,152
13	Property and equipment, net	<u>6,740,386</u>	<u>6,740,386</u>	<u>6,811,339</u>
14	Total assets	<u><u>31,774,490</u></u>	<u><u>31,562,380</u></u>	<u><u>31,277,741</u></u>
15	Current Liabilities:			
16	Accounts payable and accrued expenses	4,252,406	3,746,113	4,162,473
17	Accrued compensation	2,032,919	2,516,855	1,939,114
18	Current portion of long-term debt	457,332	457,332	591,595
19	Refundable advances	1,632,291	1,696,303	1,056,965
20	Total current liabilities	<u>8,374,949</u>	<u>8,416,602</u>	<u>7,750,147</u>
21	Line of Credit	456,735	456,735	1,224,436
22	Long-Term Debt	<u>7,533,939</u>	<u>7,568,111</u>	<u>7,950,702</u>
23	Total Liabilities	<u>16,365,623</u>	<u>16,441,448</u>	<u>16,925,285</u>
24	Fund Balance:			
25	Fund Balance - Prior Years	14,947,718	14,943,339	14,318,911
26	Fund Balance - Current Year	461,149	177,592	33,545
27	Unrestricted Net Assets	<u>15,408,867</u>	<u>15,120,931</u>	<u>14,352,456</u>
28	Total liabilities and unrestricted net assets	<u><u>31,774,490</u></u>	<u><u>31,562,380</u></u>	<u><u>31,277,741</u></u>

THE INSTITUTE FOR FAMILY HEALTH
STATEMENT OF OPERATIONS
FOR THE PERIOD ENDING 04/30/2010

Line #		Current Month Apr 2010	Monthly Budget Apr 2010	Variance	Year To Date Apr 2010	Budget YTD Apr 2010	Variance
1	Revenue:						
2	Patient services revenue, net	3,057,196	2,959,747	97,449	11,295,480	11,300,852	(5,373)
3	Bad Debt and Charity Care	62,500	62,500	-	250,000	250,000	-
4	Grant Revenue & Contract Services	1,830,868	1,850,551	(19,684)	6,980,026	7,201,876	(221,850)
5	Miscellaneous income	46,528	41,667	4,861	190,235	166,667	23,568
6	Interest Income	345	417	(72)	1,445	1,667	(222)
7	Total Revenue	4,997,436	4,914,882	82,554	18,717,185	18,921,061	(203,877)
8	Expenses:						
9	Salaries & Wages	2,713,761	2,922,027	(208,266)	11,375,901	11,501,523	(125,622)
10	Fringe Benefits	698,013	574,779	123,234	2,242,240	2,246,863	(4,623)
11	Consult. & Contract. Serv. (incl. Licenses)	317,487	330,768	(13,281)	1,108,239	1,262,932	(154,694)
12	Professional Fees	99,776	36,570	63,205	137,107	140,631	(3,524)
13	Consumable Supplies	273,693	287,604	(13,911)	1,130,665	1,098,124	32,541
14	Insurance	29,225	35,298	(6,073)	121,879	141,192	(19,313)
15	Rent	292,810	226,324	66,486	965,973	905,297	60,676
16	Telephone and Utilities	67,054	88,089	(21,035)	278,096	336,338	(58,243)
17	Equipment rental & maintenance	14,739	42,572	(27,833)	93,238	170,288	(77,050)
18	Travel, Meetings and Conferences	29,311	37,526	(8,215)	92,036	119,779	(27,743)
19	Dues, Subscript & Publications	25,497	21,720	3,777	91,661	86,881	4,780
20	Printing, Publications, and Postage	17,959	12,177	5,781	52,559	46,495	6,064
21	Interest Expense	43,118	44,926	(1,808)	186,959	182,693	4,266
22	Other	46,056	34,047	12,009	167,667	136,187	31,480
23	Total expenses	4,668,498	4,694,427	(25,929)	18,044,219	18,375,224	(331,005)
24	Operating income before depreciation	328,938	220,455	108,483	672,966	545,837	127,129
25	Depreciation Expense	57,131	56,250	881	215,850	225,000	(9,150)
26	Operating Income (Loss)	271,807	164,205	107,603	457,116	320,837	136,279
27	Non-Operating Income	-	-	-	4,033	-	4,033
28	Net Surplus (Loss)	271,807	164,205	107,603	461,149	320,837	140,312



Certificate of Need Application
North General Family Health Center

Table of Contents

<u>Schedule</u>	<u>Contents</u>
1	General Information Executive Summary
5	Working Capital Plan Sources of Working Capital
7	Environment Assessment
8	Total Project Cost Summary of Moveable Equipment Telecommunication Fees
9	Proposed Plan of Projected Financing Leases Square Footage Realtor Letters Sources of Cash Audited Financial Statement Government Grant
11	Moveable Equipment
13	Staffing N.S. Calman Curriculum Vital Back up Agreement Rent and Depreciation
17	17A D&TC Program Information 17B Community Needs 17C-1 Authorized Services 17C-2 Projected Utilization of Services 17D Allocation of Operating Costs 17E D&TC Statement of revenue

Schedule 1 - Forms Required For All CON Applications

Contents:

- **Schedule 1 A - General Information.**
- **Schedule 1 B - Abbreviated Executive Summary**
- **Schedule 1 C - Other Facilities Owned or Controlled by the Applicant**

Schedule 1 A - General Information - All Applicants

Main Site	MAIN SITE PFI	TYPE OF FACILITY	MAIN SITE NAME	
	4336	D & TC	The Institute for Family Health	
	STREET & NUMBER			
	16 East 16 th Street			
	CITY	COUNTY	ZIP	
	New York	New York	10003	

Project Site	PROJECT SITE PFI	TYPE OF FACILITY	PROJECT SITE NAME	
		D & TC	North General Family Health Center	
	STREET & NUMBER			
	1879 Madison Avenue			
	CITY	COUNTY	ZIP	
	New York	New York	10035	

Operator Information	OPERATING CERTIFICATE NUMBER	TYPE OF FACILITY	LEGAL ENTITY THAT WILL OPERATE OF THE FACILITY (or proposed operator)	
	7002137R	D & TC	The Institute for Family Health	
	STREET & NUMBER			
	16 East 16 th Street			
	CITY	COUNTY	ZIP	
	New York	New York	10003	

Title of Attachment:

Is the applicant an existing facility? If yes, attach a photocopy of the resolution of partners, corporate directors, or LLC managers, as the case may be, authorizing the project.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Board Resolution
Is the applicant part of an "established article 28" network" as defined in section 401.1(j) of 10 nycrr? If yes, attach a statement that identifies the network and describes the applicant's affiliation. Attach an organizational chart, if available.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

Type of Application: Establishment Construction Administrative Limited

Total Project Cost:

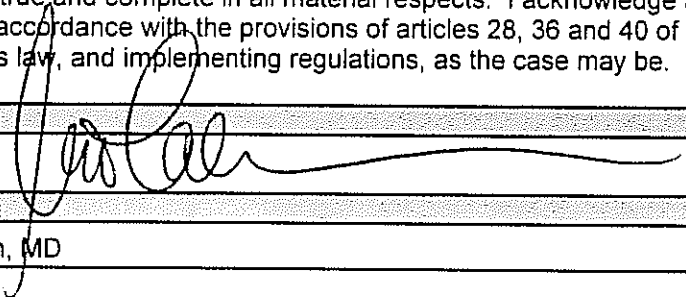
\$424,316.00
\$3,159.00

Amount of Application Fee (see Schedule 8)

Acknowledgement And Attestation

I hereby certify, under penalty of perjury, that I am duly authorized to subscribe and submit this application on behalf of the applicant: The Institute for Family Health

I further certify that the information contained in this application and its accompanying schedules and attachments are accurate, true and complete in all material respects. I acknowledge and agree that this application will be processed in accordance with the provisions of articles 28, 36 and 40 of the public health law and/or article 7 of the social services law, and implementing regulations, as the case may be.

SIGNATURE	DATE
	6/22/10
PRINT OR TYPE NAME	TITLE
Neil S. Calman, MD	President & CEO

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

Contacts:

Applicant should identify the operator's chief executive officer, or equivalent official, to whom all official correspondence from DOH about this application should be addressed

CHIEF EXECUTIVE	NAME AND TITLE OF CHIEF EXECUTIVE		
	Neil Calman, MD		
	STREET & NUMBER		
	16 East 16 th Street		
	CITY	STATE	ZIP
	New York	New York	10003
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
212-633-0800 Ext. 1255	212-691-4610	ncalman@institute2000.org	

Applicant may designate a second person to whom copies of all official correspondence from DOH about this application should be addressed. (This could be the applicants attorney, or a consultant)

CONTACT INFORMATION	CONTACT PERSON'S COMPANY	NAME AND TITLE OF CONTACT PERSON	
	Institute for Family Health	Edward M. Fried, MA	
	STREET & NUMBER		
	16 East 16 th Street		
	CITY	STATE	ZIP
	New York	New York	10003
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
212-633-0800 Ext. 1235	212-691-4610	efried@institute2000.org	

The applicant's lead attorney should be identified:

ATTORNEY	NAME		
	Helen Pfister Manatt, Phelps & Phillips, LLP		
	STREET & NUMBER		
	7 Times Square		
	CITY	STATE	ZIP
	New York	New York	10036
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
212-830-7277		HPfister@manatt.com	

If a consultant prepared the application, the consultant should be identified:

CONSULTANT	NAME		
	STREET & NUMBER		
	CITY	STATE	ZIP
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

The applicant's lead accountant should be identified:

ACCOUNTANT	NAME		
	Alan Woghin, CPA- Partner McGladrey & Pullen, LLP Healthcare Services Group		
	STREET & NUMBER		
	1185 Avenue of the Americas, 16 th Floor		
	CITY	STATE	ZIP
	New York	New York	10036
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
212-372-1608		Alan.Woghin@rsmi.com	

Checklist of Schedules Included in This Application

Schedule Number	Schedule Name	Required	Included
1	General Information Forms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2a	Personal Qualifying Information	<input type="checkbox"/>	<input type="checkbox"/>
2b	Personal Financial Statement	<input type="checkbox"/>	<input type="checkbox"/>
2c	Not-For-Profit Director's Statement	<input type="checkbox"/>	<input type="checkbox"/>
3b	Basic Legal Information and Documentation	<input type="checkbox"/>	<input type="checkbox"/>
4	Ownership Transfers Only- Additional Legal Information For All Articles	<input type="checkbox"/>	<input type="checkbox"/>
5	Working Capital Financing Plan (Not Applicable for Article 7)	<input type="checkbox"/>	<input type="checkbox"/>
6	Architectural Submission	<input type="checkbox"/>	<input type="checkbox"/>
7	Environmental Assessment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	Project & Subproject Cost Summary	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Proposed Plan For Project Financing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Space & Construction Cost Distribution	<input type="checkbox"/>	<input type="checkbox"/>
11	Movable Equipment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
12a	Adult Care Facilities Program Information	<input type="checkbox"/>	<input type="checkbox"/>
12c	Architectural	<input type="checkbox"/>	<input type="checkbox"/>
12d	Project Financing or Lease	<input type="checkbox"/>	<input type="checkbox"/>
12e	Projected Start Up Operating Budget- (2 Years)	<input type="checkbox"/>	<input type="checkbox"/>
12f	Operating Budget- Adult Care Facility -Full Occupancy	<input type="checkbox"/>	<input type="checkbox"/>
13a	Assurances	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13b	Staffing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13c	Annual Operating Costs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13d	Annual Operating Revenues	<input type="checkbox"/>	<input type="checkbox"/>
16a	Hospital Program Information	<input type="checkbox"/>	<input type="checkbox"/>
16b	Community Need	<input type="checkbox"/>	<input type="checkbox"/>
16c	Impact of CON Application - Hospital Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
16d	Hospital Outpatient Departments	<input type="checkbox"/>	<input type="checkbox"/>
16e	Hospital Utilization/Discharge and Patient Days	<input type="checkbox"/>	<input type="checkbox"/>
16f	Hospital Facility Access	<input type="checkbox"/>	<input type="checkbox"/>
17a	Diagnostic & Treatment Center Program Information	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17b	Community Need	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17c	Impact of CON Application - D&TCs Operating Certificate	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17d	D&TC Allocation of Operating Costs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17e	D&TC Statement of Revenue	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
18a	Residential Health Care Facility (RHCF) Program Information	<input type="checkbox"/>	<input type="checkbox"/>
18b	Impact of CON Application - RHCF Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
18c	RHCF Space & Construction Cost Distribution	<input type="checkbox"/>	<input type="checkbox"/>
18d	RHCF Statement of Functional Expenses	<input type="checkbox"/>	<input type="checkbox"/>
18e	RHCF Analysis of Net Patient Revenue & Total Operating Revenue	<input type="checkbox"/>	<input type="checkbox"/>
19a	Adult Day Health Care Programs (ADHCP) Program Information	<input type="checkbox"/>	<input type="checkbox"/>
19b	ADHCP Services-Staffing/Program Information	<input type="checkbox"/>	<input type="checkbox"/>
20a	OMH Component (If Applicable)	<input type="checkbox"/>	<input type="checkbox"/>
21a	CHHA and LTHHCP Program Information	<input type="checkbox"/>	<input type="checkbox"/>
21b	Impact of CON Application - CHHA & LTHHCP Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
21d	CHHA/LTHHCP Operating Cost	<input type="checkbox"/>	<input type="checkbox"/>
21e	CHHA/LTHHCP Projected Operating Revenue	<input type="checkbox"/>	<input type="checkbox"/>
21f	CHHA/LTHHCP Projected Utilization By Payer Category	<input type="checkbox"/>	<input type="checkbox"/>
22a	Hospices Program Information	<input type="checkbox"/>	<input type="checkbox"/>
22b	Impact of CON Application - Hospices Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
22d	Hospices Operating Costs	<input type="checkbox"/>	<input type="checkbox"/>
22e	Hospices Utilization and Revenue Estimates	<input type="checkbox"/>	<input type="checkbox"/>

Schedule 1 B - Abbreviated Executive Summary

Instructions:

In the space below, i.e., no more than one page, provide a succinct overview of your proposal. This may be done in bullet format. The purpose of the Abbreviated Executive Summary (AES) is to give the reviewer a conceptual understanding of the proposal. The AES should summarize the key elements of the proposed project. Details will be contained in the appropriate schedules of the application.

The Institute for Family Health, a federally qualified community health center network founded in 1983, seeks to add an extension clinic to its Article 28 D&TC license. The site is located at 1889 Madison Avenue in Harlem in New York County and is currently operated by North General Hospital, which has recognized the need to change its organizational structure in order to address ongoing financial difficulties.

Fully accredited by the Joint Commission on Accreditation of Health Care Organization and certified as a Level 3 Patient Centered Medical Home, the Institute operates 15 full-time health centers and nine part-time centers through its Section 330 community health center grant program. In late 2009, North General Hospital approached the Institute for assistance in operating its D&TC center and specialty care services. Since that time, clinical and administrative leaders of both organizations have met to review and coordinate all issues related to the transfer of the site. Both parties have agreed that the Institute will assume responsibility for primary medical care, mental health, dental, 12 hour/7 days a week walk-in services, school-based health services, and a number of specialty services including off-site oncology services. Pending approval, a transition date has been set for June 1, 2010.

The majority of patients served by North General Hospital are from the neighborhoods of Central and East Harlem, both of which are designated as Medically Underserved Areas and Health Professional Shortage Areas. This population has a critical need for a medical home. More than one quarter of community residents report not having a doctor. The service area's population primarily consists of African American and Hispanic residents who face significant health problems, including high rates of HIV/AIDS, asthma, diabetes, obesity, and depression. In addition, one third of the population live at or below 100 percent of the federal poverty level and roughly two thirds are below 200 percent, or approximately 170,000 individuals.

The services and activities that the Institute proposes in this application will specifically address the well-documented health care needs and disparities affecting this patient population. The Institute – which accepts all patients regardless of income, age, sex, or race – has a strong track record of success in operating high-quality clinical programs based on the family practice model of care. The Institute will apply this expertise to its services at the North General site. The site also will be incorporated into the Institute's federal scope of service, designating it as a federally qualified health center.

Schedule 1 C - Other Facilities Owned or Controlled by the Applicant

(Establishment Applications only)

Does the applicant or any related entity (parent, member or subsidiary corporation) operate or control any of the following in New York State?

FACILITY TYPE - NEW YORK STATE	FACILITY TYPE CODE	
Hospital	HOS	Yes <input type="checkbox"/> No <input type="checkbox"/>
Nursing Home	NH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Diagnostic and Treatment Center	DTC	Yes <input type="checkbox"/> No <input type="checkbox"/>
Licensed Home Care Services Agency	LHH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Certified Home Health Agency	CHH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Hospice	HSP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Adult Home	ADH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Assisted Living Program	ALP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Long Term Home Health Care Program	LTC	Yes <input type="checkbox"/> No <input type="checkbox"/>
Enriched Housing Program	EHP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Health Maintenance Organization	HMO	Yes <input type="checkbox"/> No <input type="checkbox"/>
Other	OTH	Yes <input type="checkbox"/> No <input type="checkbox"/>

**New York State Department of Health
Certificate of Need Application**

Schedule 1C

For each facility or agency referenced above, enter the name, the PFI and facility type in the chart below.

	FACILITY NAME:	PFI	FACILITY TYPE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			

**New York State Department of Health
Certificate of Need Application**

Schedule 1C

In addition to the information provided on the above chart, provide a complete list of all health care, adult care, behavioral, or mental health facilities, programs or agencies located outside New York State that are affiliated with the applicant corporation, as well as with parent, member and subsidiary corporations. For each health care entity identified, provide the full name, address, and type of services provided. In conjunction with this list, provide documentation from the regulatory agency in the state(s) where affiliations are noted, reflecting that the facilities/programs/agencies have operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of the affiliation, whichever is shorter). To assist you in securing this information, a recommended form and a sample letter of inquiry are provided in Schedule 2 D.

Please list the facilities outside of New York State that are owned or controlled by the applicant:

	FACILITY NAME AND ADDRESS:	Services provided:	STATE/ COUNTRY	FACILITY TYPE
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Schedule 5 - CON Form Regarding Working Capital Plan

Contents:

- Schedule 5 - Working Capital Plan

Working Capital Financing Plan

1. Working Capital Financing Plan and Pro Forma Balance Sheet:

This section should be completed in conjunction with the monthly Cash Flow. The general guidelines for working capital requirements are two months of first year expenses for changes of ownership and two months' of third year expenses for construction projects. Any deviation from these guidelines must be supported by the monthly cash flow analysis. If working capital is required for the project, all sources of working capital must be indicated clearly. Borrowed funds are limited to 50% of total working capital requirements. If borrowed funds are a source of working capital, please summarize the terms below, and attach a letter of interest from the intended source of funds, to include an estimate of the principal, term, interest rate and payout period being considered. Also, describe and document the source(s) of working capital equity.

List Titles of Attachments related to Borrowed Funds	List Filenames of Attachments
Example: <i>First borrowed fund source</i>	Example: <i>first_bor_fund.pdf</i>

In the section below, briefly describe and document the source(s) of working capital equity

North General Family Health Center- The implementation of this program is dependent upon the approval of the HEAL Grant funding from New York State Department of Health.

2. Pro Forma Balance Sheet

This section should be completed for all new establishment and change in ownership applications. On a separate attachment identified below, provide a pro forma (opening day) balance sheet. If the operation and real estate are to be owned by separate entities,

provide a pro forma balance sheet for each entity. Fully identify all assumptions used in preparation of the pro forma balance sheet. If the pro forma balance sheet(s) is submitted in conjunction with a change in ownership application, on a line-by-line basis, provide a comparison between the submitted pro forma balance sheet(s), the most recently available facility certified financial statements and the transfer agreement. Fully explain and document all assumptions.

List Titles of Attachments Related to Pro Forma Balance Sheets	List Filenames of Attachments
Example: <i>Attachment to operational balance sheet</i>	Example: <i>Operational_bal_sheet.pdf</i>

Schedule 7 - CON Forms Regarding Environmental issues

Contents:

- o Schedule 7 - Environmental Assessment

Environmental Assessment

Part I.

The following questions help determine whether the project is "significant" from an environmental standpoint.

1.	If this application involves establishment, will it involve more than a change of name or ownership only, or a transfer of stock or partnership or membership interests only, or the conversion of existing beds to the same or lesser number of a different level of care beds?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
2.	Does this plan involve construction and change land use or density?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
3.	Does this plan involve construction and have a permanent effect on the environment if temporary land use is involved?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
4.	Does this plan involve construction and require work related to the disposition of asbestos?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>

Part II.

If any question in Part I is answered "yes" the project may be significant and Part II must be completed. If all questions in Part II are answered "no" it is likely that the project is not significant.

1.	Does the project involve physical alteration of ten acres or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
2.	If an expansion of an existing facility, is the area physically altered by the facility expanding by more than 50% and is the total existing and proposed altered area ten acres or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
3.	Will the project involve use of ground or surface water or discharge of wastewater to ground or surface water in excess of 2,000,000 gallons per day?	yes <input type="checkbox"/> no <input type="checkbox"/>
4.	If an expansion of an existing facility, will use of ground or surface water or discharge of wastewater by the facility increase by more than 50% and exceed 2,000,000 gallons per day?	yes <input type="checkbox"/> no <input type="checkbox"/>
5.	Will the project involve parking for 1,000 vehicles or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
6.	If an expansion of an existing facility, will the project involve a 50% or greater increase in parking spaces and will total parking exceed 1000 vehicles?	yes <input type="checkbox"/> no <input type="checkbox"/>
7.	In a city, town, or village of 150,000 population or fewer, will the project entail more than 100,000 square feet of gross floor area?	yes <input type="checkbox"/> no <input type="checkbox"/>
8.	If an expansion of an existing facility in a city, town, or village of 150,000 population or fewer, will the project expand existing floor space by more than 50% so that gross floor area exceeds 100,000 square feet?	yes <input type="checkbox"/> no <input type="checkbox"/>
9.	If an expansion of an existing facility in a city, town, or village of more than 150,000 population, will the project entail more than 240,000 square feet of gross floor area?	yes <input type="checkbox"/> no <input type="checkbox"/>

10.	If an expansion of an existing facility in a city, town, or village of more than 150,000 population, will the project expand existing floor space by more than 50% so that gross floor area exceeds 240,000 square feet?	yes <input type="checkbox"/> no <input type="checkbox"/>
11.	In a locality without any zoning regulation about height, will the project contain any structure exceeding 100 feet above the original ground area?	yes <input type="checkbox"/> no <input type="checkbox"/>
12.	Is the project wholly or partially within an agricultural district certified pursuant to Agriculture and Markets Law Article 25, Section 303?	yes <input type="checkbox"/> no <input type="checkbox"/>
13.	Will the project significantly affect drainage flow on adjacent sites?	yes <input type="checkbox"/> no <input type="checkbox"/>
14.	Will the project affect any threatened or endangered plants or animal species?	yes <input type="checkbox"/> no <input type="checkbox"/>
15.	Will the project result in a major adverse effect on air quality?	yes <input type="checkbox"/> no <input type="checkbox"/>
16.	Will the project have a major effect on visual character of the community or scenic views or vistas known to be important to the community?	yes <input type="checkbox"/> no <input type="checkbox"/>
17.	Will the project result in major traffic problems or have a major effect on existing transportation systems?	yes <input type="checkbox"/> no <input type="checkbox"/>
18.	Will the project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbance as a result of the project's operation?	yes <input type="checkbox"/> no <input type="checkbox"/>
19.	Will the project have any adverse impact on health or safety?	yes <input type="checkbox"/> no <input type="checkbox"/>
20.	Will the project affect the existing community by directly causing a growth in permanent population of more than five percent over a one-year period or have a major negative effect on the character of the community or neighborhood?	yes <input type="checkbox"/> no <input type="checkbox"/>
21.	Is the project wholly or partially within, or is it contiguous to any facility or site listed on the National Register of Historic Places, or any historic building, structure, or site, or prehistoric site, that has been proposed by the Committee on the Registers for consideration by the New York State Board on Historic Preservation for recommendation to the State Historic Officer for nomination for inclusion in said National Register?	yes <input type="checkbox"/> no <input type="checkbox"/>
22.	Will the project cause a beneficial or adverse effect on property listed on the National or State Register of Historic Places or on property which is determined to be eligible for listing on the State Register of Historic Places by the Commissioner of Parks, Recreation, and Historic Preservation?	yes <input type="checkbox"/> no <input type="checkbox"/>
23.	Is this project within the Coastal Zone as defined in Executive Law, Article 42?	yes <input type="checkbox"/> no <input type="checkbox"/>

Part III.

Must be completed if any question on Part II was answered "Yes".

1.	List all other state or local agencies involved in approval of the project.	
2.	Has any other agency made an environmental review of this project? If so, give name	yes <input type="checkbox"/> no <input type="checkbox"/>
3.	Is there a public controversy concerning environmental aspects of this project? If yes, briefly describe the controversy in the space below.	yes <input type="checkbox"/> no <input type="checkbox"/>

New York State Department of Health

Certificate of Need Application

Schedule 8B - Total Project Cost - For Projects without Subprojects.

For Article 28, 36, and 40 Establishment & Construction Requiring Full, Administrative or Limited Review
 For Limited Review, escalation amounts may be entered as "0".

Constants:	Value	Comments:
Design Contingency - New Construction	0.00%	Normally 10%
Construction Contingency - New Construction	0.00%	Normally 5%
Design Contingency - Renovation Work	0.00%	Normally 10%
Construction Contingency - Renovation Work	0.00%	Normally 10%
Construction Start Date:		as mm/dd/yyyy
Midpoint of Construction Date		as mm/dd/yyyy
Completion of Construction Date		as mm/dd/yyyy
Year used to compute Current Dollars:		

Subject of attachment:	Attachment Number	Filename of attachment - PDF
For new construction and addition, at the schematic stage the design contingency will be normally be 10% and the construction contingency will be 5%. If your percentages are otherwise, please explain in an attachment		
For renovation, the design contingency will normally be 10% and the construction contingency will be 10%. If your percentages are otherwise, please explain in an attachment		

**New York State Department of Health
 Certificate of Need Application
 Schedule 8B - Total Project Cost - For Projects without Subprojects.**

	A	B	C
Item	Project Cost in Current Dollars	Escalation amount to Mid-point of Construction	Estimated Project Costs
Source:	Schedule 10 Col 7	Computed by applicant	(A + B)
1.1 Land Acquisition	\$0		\$0
1.2 Building Acquisition	\$0		\$0
2.1 New Construction	\$0	\$0	\$0
2.2 Renovation & Demolition	\$0	\$0	\$0
2.3 Site Development	\$0	\$0	\$0
2.4 Temporary Utilities	\$0	\$0	\$0
2.5 Asbestos Abatement or	\$0	\$0	\$0
3.1 Design Contingency	\$0	\$0	\$0
3.2 Construction Contingency	\$0	\$0	\$0
4.1 Fixed Equipment (NIC)	\$0	\$0	\$0
4.2 Planning Consultant Fees	\$0	\$0	\$0
4.3 Architect/Engineering Fees	\$0	\$0	\$0
4.4 Construction Manager Fees	\$0	\$0	\$0
4.5 Other Fees (Consultant, etc.)	\$0	\$0	\$0
Subtotal (Total 1.1 thru 4.5)	\$0	\$0	\$0
5.1 Movable Equipment (from Sched 11)	\$334,614	\$0	\$334,614
5.2 Telecommunications	\$89,702	\$0	\$89,702
6. Total Basic Cost of Construction (total 1.1 thru 5)	\$424,316	\$0	\$424,316
7.1 Financing Costs (Points etc)	\$0		\$0
7.2 Interim Interest Expense: \$ <input type="text"/> At <input type="text"/> % for <input type="text"/> months	\$0		\$0
8. Total Project Cost: w/o CON fees Total 6 thru 7.2	\$424,316	\$0	\$424,316
Application fees:			
9.1 Application Fee \$1,250. Article 28 only	\$1,250		\$1,250
9.2 Additional Fee for projects with Construction. (.0045 x line 8) Article 28 Only	\$1,909		\$1,909
10 Total Project Cost with fees	\$427,475	\$0	\$427,475

Schedule 9 - CON Forms Regarding Project Financing

Contents:

- Schedule 9 - Proposed Plan for Project Financing.

Schedule 9 Proposed Plan for Project Financing:

I. Summary of Proposed Financial plan:

Check all that apply and fill in corresponding amounts.

	Type	Amount
<input type="checkbox"/>	A. Lease	
<input type="checkbox"/>	B. Cash	
<input type="checkbox"/>	C. Land	
<input checked="" type="checkbox"/>	D. Other	\$427,475
<input type="checkbox"/>	E. Mortgage, Notes, or Bonds	
<input type="checkbox"/>	F. Refinancing	
<input type="checkbox"/>	Total Mortgage/Notes/Bonds plus Refinancing: (E + F)	
<input checked="" type="checkbox"/>	Total Project Financing (Sum A to F)	\$427,475

II. Details

A. Leases

	Not Applicable	Title of attachment
1. List each lease with corresponding cost as if purchased each leased item. Breakdown each lease by total project cost and subproject costs, if applicable	<input checked="" type="checkbox"/>	
2. Attach a copy of the proposed lease(s).	<input type="checkbox"/>	North General Hospital & IFH Lease
3. Submit an affidavit indicating any business or family relationships between principals of the landlord and tenant	<input checked="" type="checkbox"/>	
4. If applicable, provide a copy of the lease assignment agreement and the Landlord's consent to the proposed lease assignment	<input checked="" type="checkbox"/>	
5. If applicable, identify separately the total square footage to be occupied by the Article 28 facility and the total square footage of the building	<input type="checkbox"/>	Square Footage
6. Attach two letters from independent realtors verifying square footage rate.	<input type="checkbox"/>	Realtor Letter (2)
7. For all capital leases as defined by FASB Statement No. 13, "Accounting for Leases", provide the net present value of the monthly, quarterly or annual lease payments.	<input checked="" type="checkbox"/>	

B. Cash - Not required for limited review

**New York State Department of Health
Certificate of Need Application**

Schedule 9

Type	Amount
Accumulated Funds	0
Sale of Existing Assets	0
Gifts (fundraising program)	0
Government Grants	\$7,000,000
Other	
TOTAL CASH	\$7,000,000

	Not Applicable	Title of attachment
1. Provide a breakdown of the sources of cash. See sample table above.	<input type="checkbox"/>	Sources of Cash
2. Attach a copy of the latest certified financial statement and interim monthly or quarterly financial reports to cover the balance of time to date.	<input type="checkbox"/>	Financial Report
3. If amounts are listed in "Accumulated Funds" provide cross-reference to certified financial statement or Schedule 2b, if applicable.	<input checked="" type="checkbox"/>	
4. Attach a full and complete description of the assets to be sold, if applicable.	<input checked="" type="checkbox"/>	
5. If amounts are listed in "Gifts (fundraising program)": <ul style="list-style-type: none"> Provide a breakdown of total amount expected, amount already raised, and any terms and conditions affixed to pledges. If a professional fundraiser has been engaged, submit fundraiser's contract and fundraising plan. Provide a history of recent fund drives, including amount pledged and amount collected 	<input checked="" type="checkbox"/>	
6. If amounts are listed in "Government Grants": <ul style="list-style-type: none"> List the grant programs which are to provide the funds with corresponding amounts. Include the date the application was submitted. Provide documentation of eligibility for the funds. Attach the name and telephone number of the contact person at the awarding Agency(ies). 	<input type="checkbox"/>	Government Grants
7. If amounts are listed in "Other" attach a description of the source of financial support and documentation of its availability	<input checked="" type="checkbox"/>	
8. Current Department policy requires a minimum equity contribution of 10% of total project cost (Schedule 8b line 10).	<input checked="" type="checkbox"/>	

C. Mortgage, Notes, or Bonds - Not required for limited review

1. Provide a breakdown of the terms of the mortgage. See sample table below.

	Total Project	Units
Interest	N/A	%
Term	N/A	Years
Payout Period	N/A	Years
Principal	N/A	\$

New York State Department of Health
Certificate of Need Application

Schedule 9

Principal	N/A	\$
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	Not Applicable	Title of attachment
2. Attach a copy of a letter of interest from the intended source of permanent financing that indicates principal, interest, term, and payout period.	<input checked="" type="checkbox"/>	
3. If New York State Dormitory Authority (DASNY) financing, then attach a copy of a letter from a mortgage banker.	<input checked="" type="checkbox"/>	
4. If the financing of this project becomes part of a larger overall financing, then a new business plan inclusive of a feasibility package for the overall financing will be required for DOH review prior to proceeding with the combined financing.	<input checked="" type="checkbox"/>	

D. Land: Not required for limited review

1. Provide details for the land including but not limited to; appraised value, historical cost, and purchase price. See sample table below.

	Total Project
Appraised Value	N/A
Historical Cost	N/A
Purchase Price	N/A
Other	N/A

	Not Applicable	Title of attachment
2. If amounts are listed in "Other", attach documentation and a description as applicable.	<input checked="" type="checkbox"/>	
3. Attach a copy of the Appraisal. Supply the appraised date and the name of the appraiser.	<input checked="" type="checkbox"/>	
4. Submit a copy of the proposed purchase/option agreement.	<input checked="" type="checkbox"/>	
5. Provide an affidavit indicating any and all relationships between seller and the proposed operator/owner.	<input checked="" type="checkbox"/>	

E. Other - Not required for limited review

1. Provide listing and breakdown of other financing mechanisms.

	Total Project
Notes	N/A
Stock	N/A
Other	N/A

New York State Department of Health
 Certificate of Need Application

Schedule 9

	Not Applicable	Title of attachment
2. Attach documentation and a description of the method of financing.	<input checked="" type="checkbox"/>	

F. Refinancing - Not required for limited Review

	Not Applicable	Title of attachment
1. Provide a breakdown of the terms of the refinancing, including principal, interest rate, and term remaining.	<input checked="" type="checkbox"/>	
2. Attach a description of the mortgage to be refinanced. Provide full details of the existing debt and refinancing plan inclusive of original and current amount, term, assumption date, and refinancing fees. The term of the debt to be refunded may not exceed the remaining average useful life of originally financed assets. If existing mortgage debt will not be refinanced, provide documentation of consent from existing lien holders of the proposed financing plan.	<input checked="" type="checkbox"/>	

Schedule 9

List of Attachments

9-11-A-2a	North General Hospital & IFH Lease
9-11-A-5	Square Footage
9-11-A-6	Realtor Letters (2)
9-11-B-1	Sources of Cash
9-11-B-2	Audited Financial Statements
9-11-B-6	Government Grants

**NORTH GENERAL HOSPITAL,
Landlord**

TO

**INSTITUTE FOR FAMILY HEALTH, INC.,
Tenant**

LEASE

**Premises: Portion of North General Hospital, as more particularly described herein,
located at 1879 Madison Avenue, New York, New York**

June 1, 2010

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EXHIBITS:

- EXHIBIT A – LEGAL DESCRIPTION OF LAND
- EXHIBIT B – DEMISED PREMISES
- EXHIBIT C – TERMS OF GROUND LEASE OF ANNEX BUILDING
- EXHIBIT D – TENANT ELECTRICAL EQUIPMENT

This Index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision thereof.

LEASE

LEASE (this "Lease"), dated as of June 1, 2010 (the "Effective Date"), between North General Hospital, a New York not-for-profit corporation, having an office address at 1879 Madison Avenue, New York, New York 10035, Attn: _____ (hereinafter referred to as "Landlord") and Institute for Family Health, Inc., a New York not-for-profit corporation, having an office at _____ (hereinafter referred to as "Tenant").

WITNESSETH:

ARTICLE 1

Demise, Premises, Term, Rents

1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the premises hereinafter described in the building located at 1879 Madison Avenue, commonly known as North General Hospital, in the Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "**Building**"), on the parcel of land more particularly described in Exhibit A attached hereto (hereinafter referred to as the "**Land**"), together with the non-exclusive right to use the common areas of the Building, for the Term (as herein defined) hereinafter stated, for the Rents (as defined herein) hereinafter reserved and upon and subject to the conditions (including limitations, restrictions and reservations) and covenants hereinafter provided. Each party hereby expressly covenants and agrees to observe and perform all of the conditions and covenants herein contained on its part to be observed and performed.

1.02 The premises (the "**Demised Premises**") hereby leased to Tenant consist of approximately 27,118 rentable square feet, as more particularly shown in Exhibit B attached hereto. The Demised Premises includes all fixtures and equipment which at the commencement, or during the Term, of this Lease are thereto attached (except items not deemed to be included therein and removable by Tenant as provided in Article 13).

1.03 The term of this Lease (hereinafter referred to as the "**Term**"), shall commence on the Effective Date, and shall end at noon on the day prior to the second year anniversary of the Effective Date (hereinafter referred to as the "**Expiration Date**") or on such earlier date on which the Term may expire or be cancelled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law.

1.04 The "**Rent or Rents**" reserved under this Lease, for the Term thereof, shall be and consist of:

(a) Tenant will pay annual rent "**Fixed Rent**" for each Lease Year (as hereinafter defined) commencing on the Effective Date, as follows, including any Fixed Rent for any Renewal Periods (as herein defined):

(i) Lease Year 1 \$813,540.00 (\$67,795.00 per month)

(ii) Lease Year 2: \$837,946.20 (\$69,828.85 per month)

- (iii) Lease Year 3 (option year): \$863,084.59 (\$71,923.72 per month)
- (iv) Lease Year 4: \$ _____
(\$ _____ per month)
- (v) Lease Year 5: \$ _____
(\$ _____ per month)
- (vi) Lease Year 6: \$ _____
(\$ _____ per month)
- (vii) Lease Year 7: \$ _____
(\$ _____ per month)
- (viii) Lease Year 8 : \$ _____
(\$ _____ per month)

which shall be payable without offset or abatement in equal monthly installments in advance on the first day of each and every calendar month during the Term of this Lease; and

(b) **“Additional Rent”** consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Fixed Rent);

all to be paid to Landlord at its office, or such other place, or to such agent and at such place, as Landlord may designate by written notice to Tenant, in lawful money of the United States of America.

1.05 Tenant shall pay the Fixed Rent and Additional Rent herein reserved promptly as and when the same shall become due and payable, without demand therefor and without any abatement, deduction or setoff, subject to any grace period provided hereunder.

1.06 If the date on which Fixed Rent is first due hereunder occurs on a day other than the first day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month and paid on such first due date. Tenant shall pay the first month Fixed Rent on the Effective Date. If the Term shall end on a date other than the last day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month.

1.07 Provided that Tenant is not in default under the terms of this Lease after notice and the expiration of the applicable cure period, on the date Tenant delivers a Renewal Notice (as hereinafter defined) or at any time thereafter through the commencement date of a Renewal Term, Tenant shall have one (1) option (**“Renewal Option”**) to renew this Lease each for one (1) additional five (5) year term (**“Renewal Term”**) at the Rents and upon the other terms set forth herein by delivering notice to Landlord (each a **“Renewal Notice”**) exercising the Renewal Option no later than ninety (90) days prior to the expiration of the then current Term. In the event that Tenant shall fail to deliver the Renewal Notice in accordance with the provisions hereof, Tenant shall be deemed to have forever waived its right to exercise the

Renewal Option and Tenant shall have no further right to renew or extend the Term of this Lease. Time shall be of the essence with respect to Tenant's exercise of the Renewal Option and delivery of a Renewal Notice. Tenant shall have no right to renew or extend this Lease beyond the expiration of the Renewal Term.

1.08 Notwithstanding anything to the contrary contained in this Lease, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect upon the earlier to occur of (a) the expiration or termination of this Lease by Landlord or pursuant to law, (b) the termination or surrender of Tenant's right to possession of the Demised Premises or any portion thereof, (c) the failure of Tenant to timely and properly exercise the Renewal Option, (d) failure of Tenant to enter into a ground lease for the annex building located at 1824 Madison Avenue, New York, New York (the "**Ground Lease**") in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (e) if Tenant fails to complete the renovations to the annex building (including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (f) a Tenant default under the terms of the Ground Lease. Further, if Tenant fails to take occupancy of the annex building for any reason, upon termination or the expiration of this Lease, Tenant, and Tenant affiliates, shall not operate its business within one (1) mile of the Demised Premises; this provisions shall survive the termination or expiration of this Lease.

1.09 This Lease and the obligations of both parties hereunder, are conditioned upon the written consent of Dormitory Authority of the State of New York (the "**Consent**"). This Lease and any modifications or amendments hereof shall not take effect and be binding upon Landlord and Tenant until Landlord delivers to Tenant an original Consent executed by Dormitory Authority of the State of New York. Landlord and Tenant shall submit all reasonably requested document to Dormitory Authority of the State of New York in connection with the request for Consent. In the event that Landlord receives written or verbal advice from Dormitory Authority of the State of New York that Dormitory Authority of the State of New York's consent to this Lease will not be granted, Landlord shall have the right to terminate this Lease by written notice delivered to Tenant, in which event, this Lease shall be null, void and of no further force or effect.

1.10 As used in this Lease, the Term "**Lease Year**" shall mean each successive period of twelve (12) consecutive months during the Term of this Lease, with the first Lease Year (including any partial month) commencing on the Effective Date.

1.11 Tenant acknowledges that it has no rights to any development rights, "air rights" or comparable rights appurtenant to the Land and Building, and consents, without further consideration, to any utilization or transfer of such rights by Landlord and agrees to promptly execute and deliver any instruments which may be reasonably requested by Landlord, including instruments merging zoning lots, evidencing such acknowledgment and consent. The provisions of this Section 1.11 shall be deemed to be and shall be construed as an express waiver by Tenant of any interest Tenant may have as a "party in interest" (as such quoted term is defined in Section 12-10 of the Zoning Resolution of the City of New York) in the Land and Building. The terms of this Section shall be self operative and shall serve as a waiver of any "party in interest" rights Tenant pursuant to the terms of the Zoning Resolution of the City of New York.

ARTICLE 2

Use

2.01 [PG TO SUPPLY DEFINITION OF FQHC] Tenant shall use and occupy the Demised Premises for ambulatory services such as, but not limited to, physician's services (including diagnosis, therapy, and consultation, including if the physician examines the patient in person or is able to visualize some aspect of the patient's condition without the interposition of a third person's judgment), services and supplies incident to a physician's services, services of nurse practitioners, physician assistants (including certified nurse midwives), services and supplies incident to the services of nurse practitioners and physician assistants (including services furnished by nurse midwives), visiting nurse services to the homebound, clinical psychologist and clinical social worker services, services of registered dietitians or nutritional professionals for diabetes training services and medical nutrition therapy, as well as drugs which are otherwise covered but are furnished by, and incident to, services of physicians and non physician practitioners of Tenant and related administrative purposes .

2.02 If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises, or any part thereof, and if failure to secure such license or permit would in any way materially affect Landlord, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and make a copy of such license available to Landlord upon request. ~~Tenant shall at all times comply with the terms and conditions of each such license or permit if failure to so comply would in any way materially affect Landlord.~~

2.03 Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the certificate of occupancy for the Demised Premises or for the Building (provided that Landlord represents that the certificate of occupancy does and shall continue to permit use of the Demised Premises for executive and general office use including the use as described in Section 2.01). Tenant shall not use any part of the Demised Premises for reselling to other tenants of the Building any telecommunications services, satellite capacity, electricity or other similar services (except in connection with any sublease permitted hereunder).

2.04 Landlord covenants and agrees that, during the Term, and so long as Tenant is not otherwise in default under this Lease, Landlord will not enter into any lease for any other premises which would permit another tenant to use any Landlord property in a way that would compete with Tenant's business at the Demised Premised. In the event that Tenant is in compliance with all requirements set forth in this Lease, Tenant may make demand upon any tenant of Landlord's for the cessation of any activity or business in violation of the use restriction set forth herein, and enforce the provisions of this section by an action or proceeding in any court of competent jurisdiction against any such tenant, by injunction or otherwise. Landlord shall not be liable or obligated to Tenant for any breach of the foregoing restrictions by any Landlord tenant, nor shall any such breach in any way release or relieve Tenant of any of its obligations hereunder. Notwithstanding anything to the contrary contained in this Lease, if Tenant shall (i) fail to enter into the Ground Lease in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (ii) fail to complete the renovations to the annex building

(including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (iii) Tenant defaults under the terms of the Ground Lease, Landlord shall have no obligations to Tenant with respect to noncompetition as set forth in this Section 2.04 commencing on the date that Tenant receives notice of the occurrence of (i), (ii) or (iii) as set forth in this sentence

ARTICLE 3

“As Is”; Preparation of the Demised Premises

3.01 Tenant acknowledges that it has had an opportunity to inspect the Demised Premises prior to the Effective Date, and Tenant will accept possession of the Demised Premises on the Effective Date in their then “as is” condition. All installations connecting to any Base Building System and construction work which may be required by Tenant to prepare the Demised Premises for Tenant’s initial occupancy (hereinafter referred to as “**Tenant’s Work**”) shall be performed at Tenant’s sole cost and expense utilizing, as may be necessary in connection with such work, a general contractor, mechanical and electrical engineers, contractors and subcontractors, all as approved by Landlord in writing, such approval not to be unreasonably withheld, provided, however, Tenant hereby agrees to engage at its expense an engineer reasonably acceptable to Landlord as the mechanical and electrical engineers for the performance of the applicable portions of Tenant’s Work and Tenant agrees to engage a general contractor reasonably acceptable to Landlord. The contractors and subcontractors performing Tenant’s Work in the Building shall also be reasonably acceptable to Landlord. Tenant’s Work shall be performed by Tenant in accordance with the applicable provisions of this Lease, including, without limitation, Article 12, it being agreed by the parties that Tenant’s Work shall be deemed to be Tenant’s Changes (as defined in Article 12). All Tenant’s Work shall be subject Landlord approval, which shall not be unreasonably withheld, conditioned or delayed. Plans for all Tenant’s Work shall be submitted to Landlord and Tenant shall not commence any such work prior to its receipt of Landlord’s consent.

ARTICLE 4

Adjustments of Rent

4.01 For the purpose of this Article:

(a) “**Taxes**” shall mean the real estate taxes and assessments and special assessments imposed upon the Building and the Land and payable by Landlord. If at any time during the Term of this Lease the methods of taxation prevailing at the commencement of the Term hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed (i) a tax, assessment, levy, imposition or charge wholly or partially as capital levy or otherwise on the Rents received therefrom, or (ii) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon the Demised Premises and imposed upon Landlord, or (iii) a license fee measured by the Rents payable by Tenant to Landlord including, but not limited to a commercial rent or occupancy tax, then all such taxes, assessments, levies, impositions or charges, or the part thereof so measured or based, shall be deemed to be included within the term Taxes for the purposes hereof. In no event shall there be included within the

term Taxes any income, franchise, estate or inheritance tax levied upon Landlord unless such taxes are in lieu of or as substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon;

(b) **“Base Tax Rate”** shall mean the average of the actual Taxes (as finally determined) assessed against the Land and Building for the tax year commencing (i) July 1, 2009 and ending June 30, 2010 and (ii) July 1, 2010 and ending June 30, 2011;

(c) **“Base Tax Year”** shall mean the tax year commencing July 1, 2010 and ending June 30, 2011;

(d) **“Tax Year”** shall mean the fiscal year for which Taxes are levied by the governmental authority;

(e) **“Tenant’s Proportionate Share - Taxes”** For purposes of determining Tenant’s Tax Payment hereunder, the term **“Tenant’s Proportionate Share - Taxes”** shall mean 9.6%.

(f) **“Tenant’s Projected Share of Taxes”** shall mean 105% of the Tax Payment, if any, made by Tenant for the immediately preceding Tax Year.

4.02 If the Taxes for any Tax Year, beginning with the Tax Year following the Base Tax Year, shall be more than the Base Tax Rate, Tenant shall pay, as Additional Rent for such Tax Year, an amount equal to Tenant’s Proportionate Share – Taxes of the amount by which the Taxes for such Tax Year are greater than the Base Tax Rate. The amount payable by Tenant is hereinafter referred to as the **“Tax Payment.”** The Tax Payment shall be prorated, if necessary, to correspond with that portion of a Tax Year occurring within the Term of this Lease. The Tax Payment shall be payable by Tenant upon the later of (i) the date that is within twenty (20) days after receipt of a written demand from Landlord therefor, which written demand shall be accompanied by a copy of the tax bill together with Landlord’s computation of the Tax Payment and (ii) the date that is fifteen (15) days prior to the date that Landlord may pay such Taxes without the imposition of penalties or interest. If the Taxes for any Tax Year are payable to the taxing authority on an installment basis, Landlord may serve such demands upon, and the Tax Payment with respect to such Tax Year shall be payable by, Tenant on a corresponding installment basis.

4.03 Notwithstanding the fact that the increase in Rent is measured by an increase in Taxes, such increase is Additional Rent and shall be paid by Tenant as provided herein regardless of the fact that Tenant may be exempt, in whole or in part, from the payment of any taxes by reason of Tenant’s diplomatic, not for profit or other tax exempt status or for any other reason whatsoever.

4.04 Only Landlord shall be eligible to institute tax reduction or other proceedings to reduce the assessed valuation of the Land and Building. Should Landlord be successful in any such reduction proceedings and obtain a rebate or a reduction in assessment for periods during which Tenant has paid or is obligated to pay Tenant’s Proportionate Share - Taxes of increases in Taxes, or received the benefit of any decreases, Landlord shall, after deducting its

reasonable expenses, including, without limitation, attorneys' fees and disbursements in connection with such rebate, reduction or other benefit to Tenant (such expenses being hereafter referred to as "**Tax Expenses**"), return Tenant's Proportionate Share - Taxes of such rebate to Tenant.

4.05 Commencing after the Rent Commencement Date, Landlord shall furnish Tenant with a statement setting forth the Base Tax Rate and, at the expiration of any Tax Year thereafter, Landlord shall furnish Tenant with a statement setting forth Tenant's Proportionate Share - Taxes of the increase in Taxes. Each statement furnished under this Section 4.05 is hereinafter referred to as a "**Tax Statement**."

4.06 Commencing on the first day of the first calendar month of the first Tax Year for which Landlord shall be entitled to receive a Tax Payment, and on the first day of each calendar month thereafter throughout the Term hereof, Tenant shall pay to Landlord, as Additional Rent for the then Tax Year, an amount equal to one twelfth (1/12) of Tenant's Projected Share of Taxes. Upon each date that a Tax Payment or an installment on account thereof shall be due from Tenant pursuant to the terms of Section 4.02 hereof, Landlord shall apply the aggregate of the installments of Tenant's Projected Share of Taxes then on account with Landlord against the Tax Payment or installment thereof then due from Tenant. In the event that such aggregate amount shall be insufficient to discharge such Tax Payment or installment, Landlord shall so notify Tenant in a written demand, together with supporting documentation in reasonable detail, served upon Tenant pursuant to the terms of Section 4.02, and Tenant shall forthwith pay the amount of such insufficiency to Landlord. If, however, such aggregate amount shall be greater than the Tax Payment or installment, Landlord shall forthwith either (a) pay the amount of excess directly to Tenant concurrently with the notice or (b) permit Tenant to credit the amount of such excess against the next installment of Tenant's Projected Share of Taxes due hereunder and, if the credit of such payment is not sufficient to liquidate the entire amount of such excess, Landlord shall then pay the amount of any difference to Tenant.

4.07 For purposes of this Lease:

A. The term "**Escalation Year**" shall mean each calendar year which shall include any part of the Term.

B. The term "**Base Operating Factor**" shall mean Operating Expenses (defined hereinafter) for the 2010 calendar year.

C. The term "**Tenant's Proportionate Share - Expenses**" shall be deemed to mean 9.6%.

D. The term "**Base Rate**" shall mean the rate of interest publicly announced from time to time by Citibank, N.A., or its successor, as its "base rate" (or such other term as may be used by Citibank, N.A., from time to time, for the rate presently referred to as its "base rate").

E. The term "**Amortized Expenses**" shall mean the annual amortization (on a straight line basis over a depreciable life in accordance with generally accepted accounting principles consistently applied) of expenditures incurred by Landlord after the Commencement Date for any equipment, device or capital improvement which is required by law or insurance

requirements or which is designed as a labor saving measure or designed to effect other economies or efficiencies in the operation or maintenance of the Property or the Building equipment, in each case, only to the extent of the savings created by such expenditures.

F. The term "**Operating Expenses**" shall mean Amortized Expenses and all other costs and expenses (and taxes thereon, if any) paid or incurred by Landlord or on behalf of Landlord with respect to the operation, cleaning, repair, safety, management, heating, ventilating and air conditioning of the Building, including the Building condenser water system (the "**Base Building System**"), security and maintenance of the Property, Building equipment, sidewalks, curbs, plazas and other areas adjacent to the Building, sewer and water rents, rates and charges, and with respect to the services provided tenants, reasonable annual management fees or, if no managing agent is employed by Landlord, a sum in lieu thereof not in excess of the then prevailing rates for management fees, to the extent applicable to the Building, payable in the Borough of Manhattan, City of New York, for hospitals (which, in either case, shall hereinafter be referred to as the "**Management Fee**"), insurance against loss or liability with respect to the payments or revenues; provided, however, that Operating Expenses shall exclude or have deducted from them, as the case may be:

1. executives' salaries;
2. expenditures for capital improvements or capital equipment, other than those properly included in Amortized Expenses;
3. amounts received by Landlord through insurance proceeds, condemnation awards, warranties and service contracts, or otherwise, to the extent they are compensation for sums previously included in Operating Expenses hereunder;
4. amounts paid to an affiliate of Landlord which are in excess of the amounts which would have been paid in the absence of such relationship in connection with arms-length transactions with unrelated third-parties;
5. depreciation, except as the same may be properly included in Amortized Expenses;
6. brokerage commissions paid for leasing of space in the Building;
7. Taxes (as said term is defined in Section 5.01.D.);
8. advertising and promotional expenditures incurred in connection with leasing space in the Building;
9. costs incurred in performing work or furnishing services for any tenant (including Tenant), at such tenant's expense, or if at Landlord's expense, to the extent that such work or service is in excess of any work or service that Landlord is obligated to furnish to Tenant at Landlord's expense pursuant to the terms of this lease or is otherwise furnishing to Tenant;

10. refinancing costs, rents payable under any superior lease, mortgage interest and mortgage amortization payments, and any other general overhead and general administrative expenses not related to the operation of the Property;

11. legal and auditing fees, other than legal and auditing fees reasonably incurred in connection with the maintenance and operation of the Building or in connection with the preparation of statements required pursuant to additional rent or lease escalation provisions;

12. repair costs resulting from the negligence of Landlord; and

13. costs incurred by Landlord that result from Landlord's breach of a lease in the Building or of any law.

G. If during all or part of any Escalation Year, Landlord shall not furnish any particular item(s) of work or service (the cost of which would otherwise constitute an Operating Expense) to portions of the Building due to the fact that such portions are not occupied or leased or for any other reason, then, for the purposes of computing Operating Expenses, Landlord may determine that the amount of such item for such period shall be deemed to be increased by an amount equal to the additional costs and expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such item of work or service to such portion of the Building or to such tenant.

4.08 A. Tenant shall pay as additional rent for each Escalation Year an amount ("Tenant's Operating Payment") equal to Tenant's Proportionate Share of the amount by which Operating Expenses for such Escalation Year exceeds the Base Operating Factor.

B. Landlord shall furnish to Tenant, with respect to each Escalation Year, a written statement setting forth Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year. The statement furnished under this Section 4.08 is hereinafter referred to as an "**Expense Statement**". Tenant shall pay to Landlord on the first day of each month during such Escalation Year an amount equal to one twelfth (1/12) of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, such estimate not to exceed one hundred ten (110%) percent of Tenant's Operating Payment for the previous Escalation Year. If, however, Landlord shall furnish any such estimate for an Escalation Year subsequent to the commencement thereof, then (i) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Article in respect of the last month of the preceding Escalation Year; (ii) Tenant shall, within thirty (30) days after receipt by Tenant of such estimate, pay to Landlord the amount of any underpayment of Tenant's Operating Payment with respect to the then current Escalation Year calculated to the end of the month in which such estimate is furnished, or, in the event of an overpayment, Landlord shall either pay to Tenant or, at Landlord's election, credit the amount against subsequent payments under this Article, the amount of Tenant's overpayment; and (iii) Tenant shall pay to Landlord an amount equal to one twelfth (1/12) of Tenant's Operating Payment shown on such estimate on the first day of the month following the month in which such estimate is furnished to Tenant, and monthly thereafter throughout the remainder of such Escalation Year unless and until Landlord shall furnish to Tenant a revised statement of Landlord's reasonable estimate of Tenant's

Operating Payment for such Escalation Year, which Landlord may do at any time or from time to time and in such case, Tenant's Operating Payment for such Escalation Year shall be adjusted and paid or refunded, as the case may be, substantially in the same manner as provided in the preceding clause.

C. Within sixty (60) days after the end of each Escalation Year Landlord shall furnish to Tenant an Expense Statement for such Escalation Year. Each such year end Expense Statement shall be accompanied by a computation of Operating Expenses for the Building from which Landlord shall make the computation of Operating Expenses hereunder. In making its computation of Operating Expenses, Landlord may rely on Landlord's estimates and allocations when necessary. If the Expense Statement shall show that the sums paid by Tenant under the Article exceeded Tenant's Operating Payment required to be paid by Tenant for such Escalation Year, Landlord shall either refund to Tenant the amount of such excess or credit the amount of such excess against subsequent payments under this; and if the Expense Statement for such Escalation Year shall show that the sums so paid by Tenant were less than Tenant's Operating Payment paid by Tenant for such Escalation Year, Tenant shall pay the amount of such deficiency within thirty (30) days after receipt by Tenant of such year end Expense Statement.

D. If an Escalation Year begins prior to the Commencement Date or ends after the Expiration Date or sooner termination of this lease, Tenant's Operating Payment with respect thereto shall be apportioned in the ratio of the number of days in such Escalation Year occurring within the Term to the total number of days in such Escalation Year.

4.09 Landlord's failure during the lease Term to prepare and deliver any of the tax bills, statements, notice or bills set forth in this Article 4, or Landlord's failure to make a demand, shall not in any way cause Landlord to forfeit or surrender its rights to collect any of the foregoing items of additional rent which may have become due during the Term of this Lease. Tenant's liability for the amounts due under this Article 4 shall survive the expiration of the Term or any other termination of this Lease.

4.10 If all or any part of the fixed rent or additional rent payable hereunder shall at any time become uncollectible, reduced or required to be refunded by virtue of any laws and/or requirements of public authorities (including, without limitation, rent control or stabilization laws) then for the period prescribed thereby Tenant shall pay to Landlord the maximum amounts of fixed rent and additional rent permitted pursuant thereto. Upon the expiration of the applicable period of time during which such amounts shall be uncollectible, reduced or refunded, Tenant shall pay to Landlord as additional rent, within thirty (30) days after written demand, all such uncollected, reduced or refunded amounts that would have been payable for the period absent such laws and/or requirements of public authorities; provided that the retroactive collection thereof shall then be lawful.

ARTICLE 5

Security Deposit

5.01 Tenant has deposited with Landlord the sum of \$135,590.00 in the form of cash or a letter of credit ("**Letter of Credit**") pursuant to the requirements set forth in Section 5.02 as security for the faithful performance and observance by Tenant of the terms, provisions

and conditions of this Lease. Landlord agrees to hold the said Letter of Credit or cash, as the case may be, for the entire Term hereof, subject, however, to the terms of this Article 5 with respect to the application of the proceeds thereof in the event of Tenant's default hereunder. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent and Additional Rent, Landlord may notify the Issuing Bank (as defined herein), if a Letter of Credit is provided and thereupon receive such portion of the proceeds of the said Letter of Credit or cash, as the case may be, and use, apply or retain the whole or any part of such proceeds, as the case may be, to the extent required for the payment of any Rent and Additional Rent or any other sum as to which Tenant is in default or for any sum which Landlord may reasonably expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. In the event that Landlord applies or retains any portion or all of the proceeds of such Letter of Credit or cash, as the case may be, pursuant to this Section 5.01, then Tenant shall forthwith provide a replacement Letter of Credit complying with the terms of this Article 5 or cash, in either case, equal to the portion of the Security Deposit applied. The Letter of Credit or cash security, less any monies applied pursuant to this Section 5.01, as the case may be, shall be returned to Tenant within fifteen (15) days after Expiration Date, or earlier termination of this Lease.

5.02 The Letter of Credit shall be a clean, irrevocable and unconditional Letter of Credit issued by and drawn upon any commercial bank (hereinafter referred to as the "**Issuing Bank**") with offices for banking purposes in the City of New York and which is a member of the New York Clearing House Association and having a net worth of not less than Five Hundred Million and 00/100 (\$500,000,000.00) Dollars, which Letter of Credit shall have an initial term of not less than one year, be in form and content reasonably satisfactory to Landlord, and be for the account of Landlord. The Letter of Credit shall provide that it shall be deemed automatically renewed, without amendment, for consecutive periods of one (1) year each thereafter during the Term of this Lease (with a final expiration date of no earlier than 30 days after the Expiration Date), unless Issuing Bank sends written notice (hereinafter referred to as the "**Non-Renewal Notice**") to Landlord by US Express Mail, return receipt requested, not less than thirty (30) days next preceding the then expiration date of the Letter of Credit that it elects not to have such Letter of Credit renewed. Additionally, the Letter of Credit shall provide that Landlord, within twenty (20) days of its receipt of the Non-Renewal Notice, shall have the right, exercisable by means of (a) a sight draft bearing reference to the Letter of Credit and (b) Landlord's certified statement of default or non-renewal (i) that Tenant has breached its obligations under this Lease, (ii) stating the amount to be received in accordance with Section 5.01 of this Lease, and (iii) stating that the applicable grace period has expired, to receive the monies represented by the Letter of Credit and hold such proceeds pursuant to the terms of Section 5.01 as a cash security (and Landlord shall have no obligation to maintain such cash security in an interest bearing account) pending the replacement of such Letter of Credit or other application of such cash security or proceeds pursuant to the terms of this Lease. The sight draft and certified statement shall each be executed by an authorized representative of Landlord.

5.03 In the event of a sale of the Land and the Building or a leasing of the Building, Landlord shall either (a) return the Letter of Credit or cash, as the case may be, deposited hereunder to Tenant or (b) transfer the Letter of Credit or cash, as the case may be,

deposited hereunder to the vendee or lessee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Letter of Credit or cash, as the case may be, provided that in the case of a transfer, such transferee has assumed Landlord's obligations hereunder. In the event of such a transfer, Tenant agrees to look solely to the new Landlord for the return of said Letter of Credit or cash, as the case may be. It is agreed that the provisions hereof shall apply to every transfer or assignment made of said Letter of Credit or cash, as the case may be, to a new Landlord.

5.04 Tenant covenants that it will not assign or encumber, or attempt to assign or encumber, the Letter of Credit or cash, as the case may be, deposited hereunder as security, or any proceeds thereof, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance.

5.05 In the event that at any time during the Term of this Lease Landlord reasonably determines (a) that the net worth of the Issuing Bank shall be less than the minimum amount specified in Section 5.02, or (b) that circumstances have occurred indicating that the Issuing Bank may be incapable of, unable to, or prohibited from honoring the then existing Letter of Credit (hereinafter referred to as the "Existing L/C") in accordance with the terms thereof, then, upon the happening of either of the foregoing, Landlord may send written notice to Tenant (hereinafter referred to as the "Replacement Notice") requiring Tenant within ten (10) days to replace the Existing L/C with a new letter of credit (hereinafter referred to as the "Replacement L/C") from an Issuing Bank meeting the qualifications described in Section 5.02. Upon receipt of a Replacement L/C meeting the qualifications of Section 5.02, Landlord shall forthwith return the Existing L/C to Tenant. In the event that a Replacement L/C meeting the qualifications of Section 5.02 is not received by Landlord within the time specified, the Existing L/C may be presented for payment by Landlord in accordance with the terms and conditions of Section 5.02 and the proceeds thereof shall be held by Landlord as cash security in accordance with Section 5.01 subject, however, to Tenant's right, at any time thereafter if no default then exists, to replace such cash security with a new letter of credit meeting the qualifications of Section 5.02.

ARTICLE 6

Subordination, Notice to Lessors and Mortgagees

6.01 This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate in all respects to all ground leases, overriding leases and underlying leases of the Land and/or the Building now or hereafter existing and to all mortgages which may now or hereafter affect the Land and/or the Building and/or any of such leases, whether or not such mortgages shall also cover other lands and/or buildings, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such leases and such mortgages and spreaders and consolidations of such mortgages. This Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute and deliver any instrument that Landlord, the lessor of any such lease or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination, provided that no such instrument shall materially alter the terms of this Lease. The leases to which this Lease is, at the time referred to, subject and subordinate pursuant to this

Article are hereinafter sometimes referred to as "**Superior Leases**" and the mortgages to which this Lease is, at the time referred to, subject and subordinate are hereinafter sometimes referred to as "**Superior Mortgages**" and the lessor of a Superior Lease or its successor in interest at the time referred to is sometimes hereinafter called a "**Lessor**" and the mortgagee of a Superior Mortgage or its successor in interest at the time referred to is sometimes hereinafter called a "**Mortgagee**".

6.02 In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (i) until it has given written notice of such act or omission to the Mortgagee of each Superior Mortgage and the Lessor of each Superior Lease whose name and address shall previously have been furnished to Tenant by notice in writing, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such Mortgagee or Lessor within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Mortgagee or Lessor shall have become entitled under such Superior Mortgage or Superior Lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Mortgagee or Lessor shall promptly give Tenant written notice of intention to, thereafter promptly commence and continue to remedy such act or omission.

6.03 If the Lessor of a Superior Lease or the Mortgagee of a Superior Mortgage or any other person or entity shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then at the request of such party so succeeding to Landlord's rights (herein sometimes referred to as "**Successor Landlord**") and upon Successor Landlord's election, which may be withheld at its sole discretion, and written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease, and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment this Lease shall continue in full force and effect as, or as if it were, a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment except that the Successor Landlord shall not:

(a) be liable for any previous act or omission of Landlord under this Lease;

(b) be subject to any offset, not expressly provided for in this Lease, which shall have theretofore accrued to Tenant against Landlord; or

(c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month's Fixed Rent not expressly provided for in this Lease or received by or credited to such Successor Landlord, unless such modification or prepayment shall have been expressly approved in writing by the Lessor of the Superior Lease or the Mortgagee of the Superior Mortgage through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease.

ARTICLE 7
Quiet Enjoyment

7.01 So long as this Lease is in full force and effect and Tenant is not in default hereunder after notice and expiration of the applicable cure periods, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises subject, nevertheless, to the obligations of this Lease and, as provided in Article 6, to the Superior Leases and the Superior Mortgages.

7.02 Without in any way limiting the foregoing, in the event that Landlord moves all or substantially all of its operations out of the Building during the Term of this Lease, Tenant shall have the right to continue to occupy the Demised Premises under this Lease and on the same basis, including substantially similar costs, as would exist had Landlord not so moved its operations out of the Building. In such instance, Landlord is and shall continue to be legally responsible for the Building and its obligations hereunder, including, without limitation,

(a) the same services that are presently provided including, without limitation, security, heat, hot water, power, and, as required under this Lease, maintenance and repair of the Building and Base Building Systems;

(b) staff at and with respect to the Building as required to maintain the current standard of operations, and not Landlord's business therein, and including an individual familiar with the operations and services in the Building to be the primary contact with the Tenant with respect to such operations and services;

(c) maintain insurance with respect to the Building.

ARTICLE 8
Assignment and Subletting

8.01 Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage or encumber this agreement, nor underlet, nor suffer, or permit the Demised Premises or any part thereof to be used or occupied by others, without the prior written consent of Landlord in each instance which consent may be withheld at Landlord's sole discretion. If this Lease be assigned, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect Rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved, but no assignment, subletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or subletting shall not in any wise be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance. Notwithstanding the foregoing, Tenant may, without Landlord's consent, sublease the

Demised Premises or any part(s) thereof or assign this Lease to any corporation, partnership, or other entity controlling, controlled by, or under common control with Tenant; provided, however, (i) any such entity shall not be less capitalized than Tenant at the time of the assignment or sublet, (ii) Landlord is provided with written notification of any such assignment or sublet, along with assignment or sublet documentation reasonably acceptable to Landlord, and (iii) any such assignment or sublet shall not relieve Tenant's responsibilities under the terms of the Lease.

ARTICLE 9

Compliance with Laws and Requirements of Public Authorities

9.01 Tenant shall give prompt notice to Landlord of any notice it receives of the violation of any law or requirement of any local, State, or Federal public authority with respect to the Demised Premises, and at its expense shall comply with all laws and requirements of all such public authorities which shall, with respect to the Demised Premises or the use and occupation thereof, or the abatement of any nuisance, impose any violation, order or duty on Landlord or Tenant, arising from (i) Tenant's particular use or manner of use of the Demised Premises including, but not limited to, proper disposal of medical waste (ii) the particular manner of conduct of Tenant's business or operation of its installations, equipment or other property therein, (iii) any cause or condition created by Tenant's Work or Tenant's Changes (as defined herein), other than by Landlord's performance of any work for or on behalf of Tenant, or (iv) breach of any of Tenant's obligations hereunder. However, Tenant shall not be so required to make any structural or other substantial change in the Demised Premises unless the requirement arises from a cause or condition referred to in clause (i), (ii), (iii) or (iv) above. Furthermore, Tenant need not comply with any such law or requirement of public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises, in accordance with Section 9.02.

9.02 Tenant may, at its expense (and if necessary, in the name of but without expense to Landlord) contest, by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the Demised Premises, of any law or requirement of public authority, and Landlord shall cooperate with Tenant in such proceedings, provided that:

(a) Landlord shall not be subject to criminal penalty or to prosecution for a crime nor shall the Demised Premises or any part thereof be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest;

(b) Tenant shall defend, indemnify and hold harmless Landlord against all liability, loss or damage which Landlord shall suffer by reason of such noncompliance or contest, including reasonable attorney's fees and other expenses reasonably incurred by Landlord;

(c) such non-compliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage, or if such Superior Lease and/or Superior Mortgage shall permit such non-compliance or contest on condition of the taking of action or furnishing of security by Landlord, such action shall be taken and such security shall be furnished at the expense of Tenant; and

(d) Tenant shall keep Landlord advised as to the status of such proceedings.

Without limiting the application thereto of Subsection (a) above, Landlord shall be deemed subject to prosecution for a crime within the meaning thereof if Landlord, or any officer of Landlord individually, is charged with a crime of any kind or degree whatever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or such officer (as the case may be) is required to plead or answer thereto.

9.03 Neither Landlord nor Tenant shall install, or permit to be installed, in the Building friable asbestos or any substance containing asbestos which is deemed hazardous by any federal, state or local regulations respecting such material. In the event that during the Term hereof it is determined that there is asbestos in the Demised Premises, Landlord agrees that at Landlord's sole cost and expense, it shall remove, encapsulate or abate the same, in accordance with all applicable laws.

ARTICLE 10

Insurance [SUBJECT TO REVIEW BY LANDLORD'S INSURANCE CONSULTANT]

10.01 Tenant shall not violate, or permit the violation of, any condition imposed by the standard fire insurance policy then issued for office buildings in the Borough of Manhattan, City of New York, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Demised Premises which would subject Landlord to any liability or responsibility for personal injury or death or property damage, or which would increase the fire or other casualty insurance rate on the Building or the property therein over the rate which would otherwise then be in effect (unless Tenant pays the resulting premium as provided in Section 10.03) or which would result in insurance companies of good standing refusing to insure the Building or any of such property in amounts reasonably satisfactory to Landlord; provided, however, that in no event shall the mere use of the Demised Premises for customary and ordinary office purposes or for the use of the Demised Premises for the use contemplated herein constitute a breach by Tenant of the provisions of this Section 10.01.

10.02 Tenant covenants to provide to Landlord on or before the Effective Date and to keep in force during the Term hereof with respect to the Demised Premises the following insurance coverage:

(a) For the benefit of Landlord and Tenant commercial general policy of liability insurance protecting Landlord as additional insured and Tenant against any liability whatsoever occasioned by accident on or about the Demised Premises or any appurtenances thereto. Such policy is to be written by good and solvent insurance companies authorized to do business in the state of New York and rated "A" or better by A.M. Best Company, Inc. and the limits of liability thereunder shall not be less than the amount of Ten Million and 00/100 (\$10,000,000.00) Dollars combined single limit coverage on a per occurrence basis, and in the amount of Five Million and 00/100 (\$5,000,000.00) Dollars in respect of property damages, and such amounts and coverages shall be subject to change as Landlord may reasonably request. Such insurance may be carried under a blanket policy covering the Demised Premises and other locations of Tenant, if any or under an umbrella policy; and

(b) All-risk coverage in an amount adequate to cover the cost of replacement of all personal property, fixtures, furnishing and equipment, including Tenant's Work located in the Demised Premises, and shall include 12 months business interruption insurance, payable to Landlord to the extent of Rents due. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

(c) Builder's risk coverage in an amount as reasonably required by Landlord to be delivered to Landlord prior to the commencement of any Tenant's Changes or Tenant Work. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

Prior to the time such insurance is first required to be carried by Tenant and thereafter, at least fifteen (15) days prior to the expiration of any such policies, Tenant agrees to deliver to Landlord either duplicate originals of the aforesaid policies or certificates evidencing such insurance, provided said certificate contains an endorsement that such insurance may not be modified or cancelled except upon fifteen (15) days' notice to Landlord together with evidence of payment for the policy. Tenant's failure to provide and keep in force the aforementioned insurance shall be regarded as a material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default.

10.03 Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each all-risk policy obtained by it and covering the Building (as to Landlord's policy only), the Demised Premises (or, with respect to Tenant's policy any Tenant's Changes, including Tenant's Work, constructed by Tenant), and the personal property, fixtures and equipment located therein or thereon, pursuant to which the respective insurance companies waive subrogation or permit the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Demised Premises in accordance with the terms of this Lease. If and to the extent that such waiver or permission can be obtained only upon payment of an additional charge then, except as provided in the following two paragraphs, the party benefiting from the waiver or permission shall pay such charge upon demand, or shall be deemed to have agreed that the party obtaining the insurance coverage in question shall be free of any further obligations under the provisions hereof relating to such waiver or permission.

~~In the event that Landlord shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, at Tenant's option Landlord shall cause Tenant to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Tenant as such as assured, Tenant shall pay such additional premium upon written demand or Landlord shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Tenant shall have been named as one of the assureds in any of Landlord's policies in accordance with the foregoing, Tenant shall endorse~~

promptly to the order of Landlord, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Tenant hereby irrevocably waives any and all rights in and to such proceeds and payments.

In the event that Tenant shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, Tenant shall cause Landlord to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Landlord as such an assured, Landlord shall pay such additional premium upon demand or Tenant shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Landlord shall have been named as one of the assureds in any of Tenant's policies in accordance with the foregoing, Landlord shall endorse promptly to the order of Tenant, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Landlord hereby irrevocably waives any, and all rights in and to such proceeds and payments.

Subject to the foregoing provisions of this Section 10.03, and insofar as may be permitted by the terms of the insurance policies carried by it, each party hereby releases the other with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the Term of this Lease.

10.04 If, by reason of a failure of Tenant to comply with the provisions of Section 9.01 or Section 10.01, the rate of all-risk insurance on the Building or equipment or other property of Landlord shall be higher than it otherwise would be, Tenant shall reimburse Landlord, on written demand, for that part of the premiums for all-risk coverage paid by Landlord because of such failure on the part of Tenant.

10.05 If any dispute shall arise between Landlord and Tenant with respect to the incurrence or amount of any additional insurance premium referred to in Section 10.03, the dispute shall be determined by arbitration in accordance with Article 33.

ARTICLE 11

Rules and Regulations

11.01 Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations of the Building (herein so called) and such reasonable changes therein (whether by modification, elimination or addition) as Landlord at any time or times hereafter may make and communicate in writing to Tenant, which do not unreasonably affect Tenant's rights and obligations hereunder or the conduct of Tenant's business in the Demised Premises, except as required by any governmental law, rule, regulation, ordinance or similar decree.

11.02 Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to Tenant to enforce the rules and regulations of the Building or

the terms, covenants or conditions in any other lease, as against any other tenant, and Landlord shall not be liable to Tenant for violation of the same by any other tenant or its employees, agents or visitors. However, Landlord shall not enforce any of the rules and regulations in such manner as to discriminate against Tenant or anyone claiming under or through Tenant.

ARTICLE 12
Tenant's Changes

12.01 Subject to the prior approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, Tenant may from time to time during the Term of this Lease, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively referred to as the "changes" and, as applied to changes provided for in this Article, "**Tenant's Changes**") in and to the Demised Premises, excluding structural changes, as Tenant may reasonably consider necessary for the conduct of its business in the Demised Premises, on the following conditions:

(a) the outside appearance or the strength of the Building or of any of its structural parts shall not be affected;

(b) no part of the Building outside of the Demised Premises shall be physically affected;

(c) the proper functioning of any of the mechanical, electrical, sanitary and other service systems of the Building shall not be adversely affected or the usage of such systems by Tenant shall not be increased;

(d) in performing the work involved in making such changes, Tenant shall be bound by and observe all of the conditions and covenants contained in the following Sections of this Article; and

(e) before proceeding with any Tenant's Changes, other than decorative or non-structural interior changes costing less than \$50,000.00 in the aggregate (collectively, the "**Minor Tenant Changes**"), Tenant will advise Landlord in writing thereof and, shall submit to Landlord proof reasonably satisfactory to Landlord of the cost thereof, and shall further submit the names of all of the contractors or subcontractors who will be performing Tenant's Changes for Landlord's approval, not to be unreasonably withheld (the general contractor shall be selected from a list of approved building contractors provided by Landlord), which approval as to non-structural changes shall not be unreasonably withheld. Additionally, before proceeding with any Tenant's Changes, other than Minor Tenant Changes, Tenant shall (i) submit to Landlord, when plans and specifications would customarily be required in connection with the nature of the work proposed, detailed plans and specifications for the work to be done for Landlord's approval, not to be unreasonably withheld, which approval or disapproval (and the reasons therefor) shall be given by Landlord to Tenant within ten (10) business days of the submission of such plans and specifications to Landlord; (ii) upon written demand, pay to Landlord the reasonable out of pocket costs incurred by Landlord for the review of such plans and specifications by its third party architect, engineer and other consultants, and (iii) abide by Landlord's reasonable construction requirements then in effect for the Building, including

without limitation, Landlord's construction rules and regulations, except that if there are any conflicting provisions of this Lease and the construction rules and regulations, the provisions of this Lease shall prevail. Landlord may, as a condition of its approval of Tenant's plans, require Tenant to make revisions in and to the plans and specifications. If Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) in connection with Tenant's requested approval of any plans and specifications within ten (10) business days after Landlord's receipt thereof, then Tenant may deliver a second written notice to Landlord requesting Landlord's approval thereof. Thereafter, if Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) within ten (10) business days after Landlord's receipt of said second notice, then, as Tenant's sole remedy in connection therewith, and provided that said second notice shall bear the following legend typed in bold, capital letters at the top: "IF LANDLORD SHALL FAIL TO RESPOND TO TENANT IN CONNECTION WITH THIS REQUEST FOR APPROVAL WITHIN TEN (10) BUSINESS DAYS, LANDLORD SHALL BE DEEMED TO HAVE CONSENTED THERETO," Landlord shall be deemed to have approved such plans and specifications.

12.02 Tenant, at its expense, shall obtain all necessary governmental permits, inspections, and certificates for the commencement and prosecution of Tenant's Changes and for final approval thereof upon completion, and shall cause Tenant's Changes to be performed in compliance therewith and with all applicable laws and requirements of all applicable local, State, and Federal public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using new materials and equipment at least equal in quality and class to the original installations in the Building. Landlord shall promptly cooperate with Tenant by executing any necessary applications or other documentation reasonably required to be executed by Landlord in connection with approved Tenant's Changes. Tenant's Changes shall be performed in such manner as not to unreasonably interfere with or delay and (unless Tenant shall indemnify Landlord therefor to the latter's reasonable satisfaction) as not to impose any additional expense upon Landlord in the maintenance or operation of the Building. Throughout the performance of Tenant's Changes, Tenant, at its expense, shall carry, or cause to be carried, workmen's compensation insurance in statutory limits and general liability insurance for any occurrence in or about the Building as set forth in Section 10.02 hereof, in which Landlord and its agents shall be named as parties insured, in such limits as Landlord may reasonably prescribe, with insurers reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of Tenant's Changes and, on request, at reasonable intervals thereafter during the continuance of Tenant's Changes. If any of Tenant's Changes shall involve the removal of any fixtures, equipment or other property in the Demised Premises which are not Tenant's Property (as defined in Article 13), such new fixtures, equipment or other property shall be promptly replaced, at Tenant's expense, with fixtures, equipment or other property (as the case may be) of like utility and at least equal value unless Landlord shall otherwise expressly consent in writing and Tenant shall, upon Landlord's request, store and preserve, at Tenant's sole cost and expense, any such fixtures, equipment or property so removed and shall return same to Landlord upon the expiration or sooner termination of this Lease. All electrical and plumbing work in connection with Tenant's Changes shall be performed by contractors or subcontractors licensed therefor by all governmental agencies having or asserting jurisdiction and reasonably acceptable to Landlord.

12.03 Tenant, at its expense, and with diligence and dispatch, shall procure the cancellation or discharge of all notices of violation and/or mechanic's liens arising from or otherwise connected with Tenant's Changes or Tenant Work which shall be issued by the Department of Buildings or any other public or quasi-public authority having or asserting jurisdiction. Tenant shall defend, indemnify and save harmless Landlord against any and all mechanic's and other liens filed in connection with Tenant's Changes or Tenant Work, including the liens of any security interest in, conditional sales of, or chattel mortgages upon, any materials, fixtures or articles so installed in and constituting part of the Demised Premises and against all costs, expense and liabilities incurred in connection with any such lien, security interest, conditional sale or chattel mortgage or any action or proceeding brought thereon. Tenant, at its expense, shall procure the satisfaction or discharge of all such liens within sixty (60) days after Landlord makes written demand therefor. However, nothing herein contained shall prevent Tenant from contesting, in good faith and at its own expense, any such notice of violation, provided that Tenant shall comply with the provisions of Section 9.02.

12.04 Tenant agrees that the exercise of its rights pursuant to the provisions of this Article 12 or any other provision of this Lease shall not be done in a manner which would create any work stoppage, picketing, labor disruption or dispute or violate Landlord's union contracts affecting the Land and/or Building nor unreasonably interfere with the business of Landlord or any Tenant or occupant of the Building. In the event of the occurrence of any condition described above arising from the exercise by Tenant of its right pursuant to the provisions of this Article 12 or any other provision of this Lease, Tenant shall, immediately upon notice from Landlord, cease the manner of exercise of such right giving rise to such condition. In the event Tenant fails to cease such manner of exercise of its rights as aforesaid, Landlord, in addition to any rights available to it under this Lease and pursuant to law, shall have the right to injunction without notice. With respect to Tenant's Changes, Tenant shall make all arrangements for the use of the freight elevators servicing the Demised Premises, including, without limitation, any reasonable expenses incurred as a result of any Fire Watch necessitated by the Tenant's Changes and Landlord shall cooperate with Tenant as required in connection with all such arrangements.

ARTICLE 13 **Tenant's Property**

13.01 All fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term of this Lease, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises (unless Landlord gave Tenant notice prior to the time of installation that Tenant shall be required to remove same upon the expiration of the Term, in which case Tenant shall so remove such items in accordance herewith), shall be deemed the property of Landlord and shall not be removed by Tenant, except as hereinafter in this Article expressly provided.

13.02 All movable partitions (and attached components, i.e. workstations), lighting fixtures, special cabinet work, other business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Demised Premises, which are installed in the Demised Premises by or for the account of Tenant, and can be removed without permanent structural damage to the Building, and all

furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Demised Premises, (all of which are sometimes referred to as “**Tenant’s Property**”) shall be and shall remain the property of Tenant and may be removed by it at any time during the Term of this Lease; provided that if any of Tenant’s Property is removed, Tenant or any party or person entitled to remove same shall repair or pay the cost of repairing any damage to the Demised Premises or to the Building resulting from such removal. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant or which has replaced such items originally provided by Landlord at Landlord’s expense shall not be deemed to have been installed by or for the account of Tenant, without expense to Landlord, and shall not be considered Tenant’s Property.

13.03 At or before the Expiration Date, or the date of any earlier termination of this Lease, or as promptly as practicable after such an earlier termination date, Tenant at its expense, shall remove from the Demised Premises all of Tenant’s Property except such items thereof as Tenant shall have expressly agreed in writing with Landlord were to remain and to become the property of Landlord, and shall fully repair any damage to the Demised Premises or the Building resulting from such removal. Tenant’s obligation herein shall survive the termination of the Lease.

13.04 Any other items of Tenant’s Property (except money, securities and other like valuables) which shall remain in the Demised Premises after the Expiration Date or the date of any earlier termination of this Lease may, at the option of the Landlord, be deemed to have been abandoned, and in such case either may be retained by Landlord as its property or may be disposed of, without accountability, in such manner as Landlord may see fit and, any expense incurred by Landlord in connection with the removal of any such Tenant’s Property from the Demised Premises shall be paid by Tenant within five (5) days following Landlord’s written demand thereof.

ARTICLE 14 **Repairs and Maintenance**

14.01 Tenant shall take good care of the Demised Premises. Tenant, at its expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural (provided, Landlord at its sole election may perform such structural or exterior work at Tenant’s cost) or otherwise, in and about the Demised Premises and the Building, as shall be required by reason of (i) the performance or existence of Tenant’s Work or Tenant’s Changes, (ii) the installation, use or operation of Tenant’s Property in the Demised Premises, (iii) the moving of Tenant’s Property in or out of the Building, or (iv) the misuse or neglect of Tenant or any of its employees, agents or contractors. Tenant, at its sole expense, shall repair or replace all scratched, damaged or broken doors or other glass within the Demised Premises and shall be responsible for all repairs, maintenance and replacement of wall and floor coverings in the Demised Premises, and, for the repair and maintenance of all non-building standard lighting fixtures therein.

14.02 Landlord, at its expense, shall keep and maintain the Building and its fixtures, appurtenances, systems and facilities serving the Demised Premises, in good working order, condition and repair and shall make all repairs, structural and otherwise, interior and

exterior, as and when needed in or about the Demised Premises, except for those repairs for which Tenant is responsible pursuant to any other provision of this Lease.

14.03 Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making of any repairs or changes which Landlord is required by this Lease or law to make in or to any portion of the Building or the Demised Premises, or in or to the fixtures, equipment or appurtenances of the Building or the Demised Premises, provided that Landlord shall use reasonable diligence with respect thereto and shall perform such work, except in case of emergency, at times reasonably convenient to Tenant and otherwise in such manner as will, not materially interfere with Tenant's use of the Demised Premises; provided, however, the foregoing shall not require Landlord to perform any such repairs or changes on an overtime or premium time basis.

ARTICLE 15 Electricity

15.01 For purposes of this Article "Tenant's Cost" shall mean \$115,251.50 per year, subject to an escalation equal to any increase in the actual cost of electricity.

15.02 Tenant shall pay the amount of Tenant's Cost set forth thereon to Landlord as Additional Rent in equal monthly installments.

15.03 The Building is equipped with risers, feeders and wiring so as to supply electrical service to the Demised Premises.

15.04 With respect to all of the provisions of this Article 15:

(a) Landlord shall not be liable or responsible to Tenant for any loss or damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements, unless caused by the negligence of Landlord or its agents, employees, or contractors.

(b) Tenant covenants and agrees not to connect any additional electrical equipment of any type to the Building electric distribution system without Landlord's prior written consent, which consent shall not unreasonably be withheld or delayed. Notwithstanding the foregoing, Landlord hereby consents to the connection to the Building electric distribution system and use of the equipment described on Exhibit D. In no event shall Tenant use or install any fixtures, equipment or machines the use which in conjunction with other fixtures, equipment and machines in the Demised Premises would result in an overload of the electrical circuits servicing the Demised Premises.

(c) At all times Tenant's use of electric current shall never exceed the capacity of the then existing feeders to the Building or the risers or wiring installation. Tenant shall furnish, install and replace, as required, all lighting tubes, lamps, bulbs and ballasts required in the Demised Premises, at Tenant's sole cost and expense. All lighting tubes, lamps, bulbs and ballasts so installed shall become Landlord's property upon the expiration or sooner termination of the Lease.

(d) Tenant expressly agrees that all installations, alterations and additions of and to the electrical fixtures, appliances, or equipment within the Demised Premises shall be subject to Landlord's prior written approval, and, if such approval shall be given, rigid conduit only shall be permitted. If, in connection with any request for such approval, Landlord shall, in its sole judgment, determine that the risers of the Building servicing the Demised Premises shall be insufficient to supply Tenant's electrical requirements with respect thereto, Landlord shall, at the sole cost and expense of Tenant, install any additional riser(s) or feeder(s) that Landlord shall deem necessary with respect thereto, provided, however that, if Landlord shall determine, in its sole judgment, that the same will cause permanent damage or injury to the Building or to the Demised Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expense, or interfere with, or disturb the other tenants or occupants of the Building, then Landlord shall not be obligated to make such installation, and Tenant shall not make the installation, alteration, or addition with respect to which Tenant requested Landlord's consent. In addition to the installation of such riser(s) or feeder(s), Landlord will also, at the sole cost and expense of Tenant, install other equipment necessary and proper in connection therewith, subject to the aforesaid terms and conditions. All of the aforesaid costs and expenses are chargeable and collectible as Additional Rent, and shall be paid by Tenant to Landlord within thirty (30) days after rendition of any bill to Tenant therefor. Landlord represents that Tenant shall have available for Tenant's use in the Demised Premises up to six (6) watts of electrical energy per usable square foot of the Demised Premises, demand load (including the electrical energy consumed in connection with Tenant's HVAC unit located in the Demised Premises, but excluding base building HVAC consumption and common area electricity consumption).

ARTICLE 16

Heat, Ventilation and Air-Conditioning

16.01 Landlord, at Landlord's expense, shall maintain and operate the heating, ventilating and air-conditioning systems (hereinafter referred to as the "systems") and, subject to energy conservation requirements of any applicable local, State, or Federal public authorities, shall furnish heat, ventilating and air-conditioning in the Demised Premises through the currently existing systems as may be required for reasonably comfortable occupancy of the Demised Premises on [TENANT'S HOURS OF OPERATION]. Air conditioning service shall be provided as aforesaid from May 1 to September 30 of each year during the Term hereof, and heat service shall be provided as aforesaid from October 15 to March 31 of each year during the Term hereof. If Tenant shall require heating, ventilating or air-conditioning service at any other time, Landlord shall furnish such service upon reasonable advance notice from Tenant, and Tenant shall pay on written demand Landlord's cost.

16.02 Use of the Demised Premises, or any part thereof, in a manner exceeding the design conditions (including occupancy and connected electrical load) specified for the systems or rearrangement of partitioning which interferes with normal operation of the heat, ventilation and air-conditioning in the Demised Premises, may require changes in the heat, ventilation and air-conditioning system servicing the Demised Premises. Such changes, so occasioned, shall be made by Tenant, at its expense, as Tenant's Changes pursuant to Article 12. Tenant agrees at all times to cooperate fully with Landlord and to abide by all reasonable

regulations and requirements which Landlord may prescribe for the proper functioning and protection of the heat, air-conditioning and ventilating system.

ARTICLE 17
Landlord's Other Services

17.01 Landlord, at its expense, shall provide elevator service, passenger and freight, by elevators serving the floor(s) on which the Demised Premises are situated. Freight elevators shall be available after-hours, subject to Tenant's payment of expenses reasonably and customarily charged by Landlord in connection with the use thereof.

17.02 Tenant, at its expense, shall cause the Demised Premises to be cleaned in accordance with the then current Building standard cleaning specifications and applicable law and related regulations. The cleaning specifications may be revised by Landlord in its reasonable discretion from time to time, and Landlord shall thereafter promptly provide notice of such revision(s) to Tenant.

17.03 Landlord, at its expense, and on Tenant's request, shall maintain the original listings on the Building directory of the names of Tenant, and the names of any of their officers and employees to the extent space is available for such listings.

17.04 Tenant, at its sole cost and expense, shall be permitted to affix signage to the exterior of the Building. The placement, design and construction of any such signage shall be subject to the consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. All such signage shall, in all ways, comply with law.

17.05 Landlord shall furnish to the Demised Premises adequate hot and cold water for ordinary usage for drinking, lavatory, pantry and normal cleaning purposes at no charge to Tenant.

17.06 Landlord reserves the right, without any liability to Tenant, except as otherwise expressly provided in this Lease, to stop service of any of the heating, ventilating, air conditioning, electric, sanitary, elevator or other Building systems serving the Demised Premises, or the rendition of any of the other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of accidents, emergencies, strikes or the making of repairs or changes which Landlord is required by this Lease or by law to make or in good faith deems necessary, by reason of difficulty in securing proper supplies of fuel, steam, water, electricity, labor or supplies, or by reason of any other cause beyond Landlord's reasonable control. Landlord shall promptly commence and diligently and in a workmanlike manner proceed to repair and rebuild any such systems and restore any such services.

ARTICLE 18
Access Change in Building Facilities, Name

18.01 All except the inside surfaces of all walls, windows and doors bounding the Demised Premises (including exterior Building walls, core corridor walls and doors and any core corridor entrance) and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building

facilities, and the use thereof, as well as access thereto through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are reserved to Landlord. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of the rights reserved to Landlord in this Section 18.01; provided Landlord shall not be required to employ overtime or premium time labor in connection therewith(unless Tenant agrees to pay for such labor) .

18.02 Tenant shall permit Landlord to install, use, replace and maintain pipes, ducts and conduits within the demising walls, bearing columns and ceilings of the Demised Premises. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of Landlord's rights under this Section 18.02; provided, however, Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor). Except in the case of an emergency, Landlord shall give Tenant not less than twenty four (24) hours notice of any such actions.

18.03 Landlord or Landlord's agent shall have the right, upon advance request (except in emergency under clause (ii) hereof) to enter and/or pass through the Demised Premises or any part thereof, at reasonable times during reasonable hours, (i) to examine the Demised Premises and to show them to Lessors of Superior Leases, Mortgagees of Superior Mortgages, or prospective purchasers, mortgagees or lessees of the Building as an entirety, and (ii) for the purpose of making such repairs or changes in or to the Demised Premises or in or to its facilities, as may be provided for by this Lease or as may be mutually agreed upon by the parties or as Landlord may be required to make by law or in order to repair and maintain said structure or its fixtures or facilities. Subject to the provisions of this Article 18, Landlord shall be allowed to take all materials into and upon the Demised Premises that are required for such repairs, changes, repainting or maintenance, without liability to Tenant, provided that such materials shall not be stored in such a way as to unreasonably interfere with Tenant's use of the Demised Premises. Tenant's Landlord shall also have the right to enter on and/or pass through the Demised Premises, or any part thereof, at such times as such entry shall be required by circumstances of emergency affecting the Demised Premises or the Building with such advance notice as is practicable under the circumstances.

18.04 Intentionally Omitted.

18.05 Landlord reserves the right, at any time without incurring any liability to Tenant therefor, to make such changes in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators and stairways thereof, as it may deem necessary or desirable, provided such changes do not (i) unreasonably interfere with the conduct of Tenant's business in the Demised Premises, (ii) materially reduce the square foot area of the Demised Premises, (iii) materially restrict Tenant's access to the Demised Premises or (iv) materially increase any of Tenant's obligations or reduce any of Tenant's rights pursuant to this Lease.

18.06 Landlord may adopt any name for the Building. Landlord reserves the right to change the name or address of the Building.

18.07 For the purposes of Article 18, the term “**Landlord**” shall include Lessors and Mortgagees.

ARTICLE 19
Notice of Accidents

19.01 Tenant shall give notice to Landlord, promptly after Tenant learns thereof, of (i) any accident in or about the Demised Premises for which Landlord might be liable, (ii) all fires in the Demised Premises, (iii) all damages to or defects in the Demised Premises, including the fixtures, equipment and appurtenances thereof, for the repair of which Landlord might be responsible, and (iv) all damage to or defects in any parts or appurtenances of the Building’s sanitary, electrical, heating, ventilating, air-conditioning, elevator and other systems located in or passing through the Demised Premises or any part thereof.

ARTICLE 20
Non-Liability and Indemnification

20.01 Neither Landlord nor any agent or employee of Landlord shall be liable to Tenant for any injury or damage to Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of, any property of Tenant or of any other person, irrespective of the cause of such injury, damage or loss, unless caused by or due to the willful misconduct or negligence of Landlord, its agents or employees occurring within the scope of their respective employments, it being understood that no property, other than such as might normally be brought upon or kept in the Demised Premises as an incident to the reasonable use of the Demised Premises for the purpose herein permitted, will be brought upon or be kept in the Demised Premises.

20.02 Tenant shall indemnify and save harmless Landlord and its agents against and from (a) any and all claims (i) arising from (x) the conduct or management of the Demised Premises or of any business therein, (y) a breach by Tenant of this Lease or (z) any work or thing whatsoever done, or any condition created (other than by Landlord for Tenant’s account) in or about the Demised Premises during the Term of this Lease or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Demised Premises, or (ii) arising from any negligent or intentionally wrongful act or omission of Tenant or any of its subtenants or licensees or its or their employees, agents or contractors, and (b) all costs, expenses and liabilities reasonably incurred in or in connection with each such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall resist and defend such action or proceeding.

20.03 Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant hereunder shall not be affected, impaired or excused because Landlord is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of Unavoidable Delay (as defined in Section 21.03).

ARTICLE 21
Destruction or Damage

21.01 If the Building or the Demised Premises shall be partially or totally damaged or destroyed by fire or other cause, then, whether or not the damage or destruction shall have resulted from the fault or neglect of Tenant, or its employees, agents or visitors (and if this Lease shall not have been terminated as in this Article hereinafter provided), Landlord shall repair the damage and restore and rebuild the Building and/or the Demised Premises, at its expense, with reasonable dispatch after notice to it of the damage or destruction; provided, however, that Landlord shall not be required to repair or replace any of Tenant's Property nor to restore any Tenant's Work unless such damage or destruction shall have resulted from the fault or neglect of Landlord.

21.02 If the Building or the Demised Premises shall be partially damaged or partially destroyed by fire or other cause, the Rents payable hereunder shall be abated to the extent that the Demised Premises shall have been rendered untenable and for the period from the date of such damage or destruction to the date the damage shall be repaired or restored. If the Demised Premises or a major part thereof shall be totally (which shall be deemed to include substantially totally) damaged or destroyed or rendered completely (which shall be deemed to include substantially completely) untenable or inaccessible on account of fire or other cause, the Rents shall completely abate as of the date of the damage or destruction and until Landlord shall repair, restore and rebuild the Building and the Demised Premises, provided, however, that should Tenant reoccupy a portion of the Demised Premises during the period the restoration work is taking place and prior to the date that the same are made completely tenantable, Rents allocable to such portion shall be payable by Tenant from the date of such occupancy.

21.03 If the Building or the Demised Premises shall be totally damaged or destroyed by fire or other cause, or if the Building shall be so damaged or destroyed by fire or other cause (whether or not the Demised Premises are damaged or destroyed) as to require a reasonably estimated expenditure of more than forty (40%) percent of the full insurable value of the Building immediately prior to the casualty, then, in either such case Landlord may terminate this Lease by giving Tenant notice to such effect within the shorter of (1) one hundred eighty (180) days after the date of the casualty, or (ii) four (4) months from the date all insurance proceeds payable as a result of such casualty are obtained by Landlord. In case of any damage or destruction mentioned in this Article, Tenant may terminate this Lease, by notice to Landlord, if Landlord has not completed the making of the required repairs and restored and rebuilt the Building and the Demised Premises within six (6) months from the date of such damage or destruction, or within such period after such date (not exceeding four months) as shall equal the aggregate period Landlord may have been delayed in doing so by Unavoidable Delay. "~~Unavoidable Delay~~" shall mean any strikes, labor troubles or accident, or by any cause whatsoever beyond Landlord's reasonable control, including legal requirements, governmental preemption in connection with a national emergency, shortages, or unavailability of labor, fuel, steam, water, electricity or materials, Tenant Delay, delays caused by other tenants or other occupants of the Building, acts of God, enemy action, civil commotion, fire or other casualty. Notwithstanding the foregoing, if the Demised Premises are rendered wholly or substantially untenable or inaccessible and, in the reasonable estimation of Landlord's architect and insurance adjustor, the repairs necessary to restore the Demised Premises to a tenantable

condition cannot be completed within six (6) months, then Tenant shall have the right to terminate this Lease within thirty (30) days after Tenant's receipt of Landlord's architect's and insurance adjustor's estimate (which estimate must be given to Tenant promptly after the occurrence of such casualty).

21.04 If the Demised Premises shall be substantially damaged during the last one (1) year of the Term, Landlord or Tenant may elect by notice, given within thirty (30) days after the occurrence of such damage, to terminate this Lease and if either party makes such election, the Term shall expire upon the thirtieth (30th) day after notice of such election is given by such party and Tenant shall vacate the Demised Premises and surrender the same to Landlord.

21.05 No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building pursuant to this Article; provided, however, that if Tenant shall be in possession of the Demised Premises or a portion thereof during any period during which repair or restoration activities are being performed pursuant to this Article, Landlord shall use its reasonable efforts to not unreasonably interfere with the conduct of Tenant's business in the Demised Premises or portion thereof occupied by Tenant.

21.06 Notwithstanding any of the foregoing provisions of this Article, if Landlord or the Lessor of any Superior Lease or the Mortgagee of any Superior Mortgage shall be unable to collect all of the insurance proceeds (including rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other cause, by reason of the intentional misconduct or negligence on the part of Tenant or any of its employees, agents or contractors, then, without prejudice to any other remedies which may be available against Tenant, there shall be no abatement of Tenant's Rents.

21.07 Landlord will not carry insurance of any kind on Tenant's Property or Tenant's Work, and, except as required by the terms of this Lease or provided by law or by reason of its fault or its breach of any of its obligations hereunder, shall not be obligated to repair any damage thereto or replace the same.

21.08 The provisions of this Article shall be considered an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

ARTICLE 22 **Eminent Domain**

22.01 If the whole of the Building shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose, this Lease and the Term and estate hereby granted shall forthwith terminate as of the date of vesting of title in such taking (which date is hereinafter also referred to as the "date of the taking"), and the Rents shall be prorated and adjusted as of such date.

22.02 If only a part of the Building shall be so taken, this Lease shall be unaffected by such taking, except that Tenant may elect to terminate this Lease in the event of a partial taking, if the remaining area of the Demised Premises shall not be reasonably sufficient for Tenant to continue normal operation of its business, or if access to the Demised Premises shall be taken. Tenant shall give notice of such election to Landlord not later than thirty (30) days after (i) notice of such taking is given by Landlord to Tenant, or (ii) the date of such taking, whichever occurs sooner. Upon the giving of such notice by Tenant this Lease shall terminate on the date of such taking and the Rents shall be prorated as of such termination date. Upon such partial taking and this Lease continuing in force as to any part of the Demised Premises, the Rents apportioned to the part taken shall be prorated and adjusted as of the date of taking and from such date the Fixed Rent for the Demised Premises and Additional Rent shall be payable pursuant to Article 5 according to the rentable area remaining.

22.03 Landlord shall be entitled to receive the entire award in any proceeding with respect to any taking provided for in this Article without deduction therefrom for any estate vested in Tenant by this Lease and Tenant shall receive no part of such award, except as hereinafter expressly provided in this Article. Tenant hereby expressly assigns to Landlord all of its right, title and interest in or to every such award. Notwithstanding anything herein to the contrary, Tenant may, at its sole cost and expense, make a claim with the condemning authority for Tenant's moving expenses, the value of Tenant's fixtures or Tenant's Changes which do not become part of the Building or property of the Landlord, provided however that Landlord's award is not thereby reduced or otherwise adversely affected.

22.04 If the temporary use or occupancy of all or any part of the Demised Premises shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose during the Term of this Lease, Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award for such taking which represents compensation for the use and occupancy of the Demised Premises and, if so awarded, for the taking of Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Fixed Rent and Additional Rent when due, provided that Tenant may, at its option, terminate this Lease if such temporary taking shall occur within six (6) months of the end of the Term. If the period of temporary use or occupancy shall extend beyond the Expiration Date, that part of the award which represents compensation for the use or occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive so much thereof as represents the period prior to the Expiration Date and Landlord shall receive so much thereof as represents the period subsequent to the Expiration Date. All moneys received by Tenant as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Rents hereunder have been paid by Tenant shall be received, held and applied by Tenant as a trust fund for payment of the Rents falling due hereunder.

22.05 In the event of any taking of less than the whole of the Building which does not result in a termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Demised Premises which does not result in a termination or

extend beyond the Expiration Date, Landlord, at its expense, and to the extent any award or awards shall be sufficient for the purpose, shall proceed with reasonable diligence to repair, alter and restore the remaining parts of the Building and the Demised Premises to substantially their former condition to the extent that the same may be feasible and so as to constitute a complete and tenantable Building and Demised Premises.

22.06 Should any part of the Demised Premises be taken to effect compliance with any law or requirement of public authority other than in the manner hereinabove provided in this Article, then (i) if such compliance is the obligation of Tenant under this Lease, Tenant shall not be entitled to any diminution or abatement of Rent or other compensation from Landlord therefor, but (ii) if such compliance is the obligation of Landlord under this Lease, the Fixed Rent hereunder shall be reduced and Additional Rents under Article 4 shall be adjusted in the same manner as is provided in Section 22.02 according to the reduction in rentable area of the Demised Premises resulting from such taking.

22.07 Any dispute which may arise between the parties with respect to the meaning or application of any of the provisions of this Article shall be determined by arbitration in the manner provided in Article 33.

ARTICLE 23 Surrender

23.01 On the last day of the Term, or on any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord in good order, condition and repair, except for ordinary wear and tear or casualty not the responsibility of Tenant hereunder and Tenant shall remove all of Tenant's Property therefrom except as otherwise expressly provided in this Lease and shall restore the Demised Premises wherever such removal results in damage thereto.

23.02 Any holding over or continued occupancy of the Demised Premises by Tenant after the Expiration Date shall not operate to extend or renew this Lease or to imply or create a new lease between Landlord and Tenant. In such event, Landlord shall have the right to immediately terminate Tenant's occupancy of the Demised Premises, or to treat Tenant's occupancy as a month-to-month tenancy, in which event Tenant shall continue to perform all of Tenant's obligations under this Lease as shall be in effect immediately prior to the expiration or date of earlier termination of this Lease; provided, however, during such period of holding over or continued occupancy Tenant shall pay to Landlord on the first day of each month during such period of Tenant's use and occupancy of the Demised Premises, the sum of (i) two times the Fixed Rent, plus (ii) all items of Additional Rent, payable to Landlord hereunder on the first day of the calendar month immediately preceding the month in which the expiration or early termination of this Lease shall occur ("**Hold Over Rent**"). Additionally, if Tenant shall (i) fail to enter into the Ground Lease in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (ii) fail to complete the renovations to the annex building (including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (iii) Tenant defaults under the terms of the Ground Lease, Tenant shall pay Hold Over Rent for the duration of the Term commencing on the date that Tenant receives notice of the occurrence of (i), (ii) or

(iii) as set forth in this sentence. In no event however, shall Tenant be relieved of any liability to Landlord for damages resulting from such holding over. Tenant agrees to indemnify and hold Landlord harmless from and against any costs, losses, damages and expenses suffered or incurred by Landlord as a result of Tenant's holding over or continued occupancy of the Demised Premises beyond the date of expiration earlier termination of this Lease, including, but not limited to such damages as Landlord may suffer as a result of its inability to lease the Demised Premises or any part thereof to a new tenant following the Expiration Date solely by reason of Tenant's holding over as provided herein.

ARTICLE 24
Conditions of Limitation

24.01 To the extent permitted by applicable law this Lease and the Term and estate hereby granted are subject to the limitation that whenever Tenant shall make an assignment of the property of Tenant for the benefit of creditors, or shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Tenant under any bankruptcy or insolvency law, or whenever a petition shall be filed or against Tenant under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a petition shall be filed by Tenant under the arrangement provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Tenant or of or for the property of Tenant shall be appointed, then, Landlord, (a) at any time after receipt of notice of the occurrence of any such event, or (b) if such event occurs without the acquiescence of Tenant, at any time after the event continues for one hundred twenty (120) days, Landlord may give Tenant a notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of service of such notice of intention, and upon the expiration of said five (5) day period this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages' as provided in Article 26.

24.02 This Lease and the Term and estate hereby granted are subject to the further limitation that:

(a) whenever Tenant shall default in the payment of any installment of Fixed Rent, or in the payment of any Additional Rent or any other charge payable by Tenant to Landlord, on any day upon which the same ought to be paid, and such default shall continue for five (5) business days after Landlord shall have given Tenant a notice specifying such default;

(b) whenever Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability (as more particularly described in Section 9.02) or termination of any Superior Lease or foreclosure of any Superior Mortgage, if Tenant shall not, (i) within said thirty (30) day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such

situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently prosecute to completion all steps necessary to remedy the same and (iii) complete such remedy within such time after the date of the giving of said notice of Landlord as shall reasonably be necessary, but in no event longer than ninety (90) days;

(c) whenever Landlord or Tenant shall have received notice of a violation of any local, State, or Federal law or regulation from any public authority resulting from a failure by Tenant to comply with such law or regulation and shall have failed to remedy the same within sixty (60) days after the date thereof;

(d) whenever any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term hereof would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted by Article 8; or

(e) whenever Tenant shall be in default in the observance or performance of its obligations under any other lease for space in the Building, then in any of the cases set forth in this Section 24.02, Landlord may give to Tenant a notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of the service of such notice of intention, and upon the expiration of said five (5) days this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 26.

ARTICLE 25

Re-Entry by Landlord

25.01 If Tenant shall default in the payment of any installment of Fixed Rent, or of any Additional Rent, on any date upon which the same ought to be paid, and if such default shall continue for five (5) business days after Landlord shall have given to Tenant a notice specifying such default, or if this Lease shall expire as provided herein, Landlord or Landlord's agents and employees may immediately or at any time thereafter re-enter the Demised Premises, or any part thereof, in the name of the whole, either by summary dispossession proceedings or by any suitable action or proceeding at law, or by any other legal means, without being liable to indictment, prosecution or damages therefor (except to the extent resulting from Landlord's negligence or willful misconduct), and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises again as and of its first estate and interest therein. The word re-enter, as herein used, is not restricted to its technical legal meaning. In the event of any termination of this Lease under the provisions of this Lease or if Landlord shall re-enter the Demised Premises under the provisions of this Article or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall thereupon pay to Landlord the Fixed Rent and Additional Rent payable by Tenant to Landlord up to the time of such termination of this Lease, or of such recovery of possession of the Demised Premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided in Article 26.

25.02 In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right of injunction. The special remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may lawfully be entitled at any time and Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein. In the event of a breach or threatened breach by Landlord of any of its obligations under this Lease, Tenant shall have the right of injunction in addition to any other remedy which may be available to Tenant hereunder, allowed at law or in equity. The remedies to which Tenant may resort hereunder are cumulative and are not intended to be exclusive of any other remedies to which Tenant may lawfully be entitled at any time and Tenant may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein.

25.03 If this Lease shall terminate under the provisions hereof, or if Landlord shall re-enter the Demised Premises under the provisions of this Article, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all moneys, if any, paid by Tenant to Landlord, whether as advance Rent, security or otherwise, but such moneys shall be credited by Landlord against any Fixed Rent or Additional Rent due from Tenant at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant under Article 26 or pursuant to law.

ARTICLE 26

Damages

26.01 If this Lease is terminated under the provisions of this Lease, or if Landlord shall re-enter the Demised Premises under the provisions of Article 25, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(a) A sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then discounted present value of the excess, if any, of

(1) the aggregate of the Fixed Rent and the Additional Rent payable hereunder which would have been payable by Tenant (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date, had this Lease not so terminated or had Landlord not so re-entered the Demised Premises, over

(2) The aggregate rental value of the Demised Premises for the same period, or

(b) sums equal to the Fixed Rent and the Additional Rent (as above presumed) payable hereunder which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Demised Premises, payable upon the due dates therefor specified herein following such termination or such re-entry and until the Expiration Date, provided, however, that if Landlord shall relet the Demised Premises during said period, or receive any other income or consideration in connection with the use or occupancy of the Demised Premises, Landlord shall credit Tenant with the net rents received by Landlord from such reletting (or the net amounts of such other income or consideration), such net rents and other amounts to be determined by first deducting from the gross rents and other amounts as and when received by Landlord the reasonable and actual expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof, as well as the reasonable and actual expenses of reletting, including altering and preparing the Demised Premises for new tenants, brokers' commissions, and all other customary and reasonable expenses properly chargeable against the Demised Premises and the rental therefrom; it being understood that any such reletting may be for a period shorter or longer than the remaining Term; but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this Subsection to a credit in respect of any net rents from a reletting or any net amounts of such other income or consideration, except to the extent that such net rents or other amounts are actually received by Landlord. If the Demised Premises or any part thereof should be relet in combination with other space, then proper apportionment on a rentable square foot basis (for equivalent space) shall be made of the rent received from such reletting and of the expenses of reletting.

If the Demised Premises or any part thereof be relet by Landlord for the unexpired portion of the Term, or any part thereof, before presentation of proof of such damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall, prima facie, be the fair and reasonable rental value for the Demised Premises, or part thereof, so relet during the term of the reletting, provided that such reletting shall constitute a bona-fide arm's-length third party transaction.

26.02 Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired if it had not been so terminated under the provisions of this Lease, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Nothing herein contained shall be construed to limit or prejudice the right of Landlord to prove for and obtain as liquidated damages by reason of the termination of this Lease or re-entry on the Demised Premises for the default of Tenant under this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved whether or not such amount be greater, equal to, or less than any of the sums referred to in Section 26.01.

ARTICLE 27
Waivers

27.01 Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease for the Term hereby demised after being dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the termination of this Lease as herein provided.

27.02 In the event that Tenant is in arrears in payment of Fixed Rent or Additional Rent hereunder after notice and the expiration of the applicable cure periods, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited, and Tenant agrees that Landlord may apply any payments made by Tenant to any items it sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

27.03 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Demised Premises, including any claim of injury or damage, or any emergency or other statutory remedy with respect thereto.

27.04 The provisions of Articles 16 and 17 shall be considered expressed agreements governing the services to be furnished by Landlord, and Tenant agrees that any laws and/or requirements of public authorities, now or hereafter in force, shall have no application in connection with any enlargement of Landlord's obligations with respect to such services unless Tenant agrees, in writing, to pay to Landlord, as Additional Rent, Landlord's reasonable charges for any additional services provided.

ARTICLE 28
No Other Waivers or Modifications

28.01 The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No executory agreement hereafter made between Landlord and Tenant shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge or termination or effectuation of the abandonment is sought.

28.02 The following specific provisions of this Section shall not be deemed to limit the generality of any of the foregoing provisions of this Article:

(a) No agreement to accept a surrender of all or any part of the Demised Premises shall be valid unless in writing and signed by Landlord. The delivery of keys to an employee of Landlord or of its agent shall not operate as a termination of this Lease or a surrender of the Demised Premises. If Tenant shall at any time request Landlord to sublet the Demised Premises for Tenant's account, Landlord or its agent is authorized to receive said keys for such purposes without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord from any liability for loss or damage to any of Tenant's property in connection with such subletting, except to the extent resulting from Landlord's negligence or willful misconduct.

(b) The receipt by Landlord of Rent with knowledge of breach of any obligation of this Lease shall not be deemed a waiver of such breach.

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

ARTICLE 29

Curing Tenant's Defaults, Additional Rent

29.01 (a) If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the reasonable expense of Tenant, without notice, in a case of emergency, and in any other case, only if such default continues after the expiration of (i) five (5) business days from the date Landlord gives Tenant notice of intention so to do, or (ii) the applicable grace period provided in Section 24.02 or elsewhere in this Lease for cure of such default, whichever occurs later;

(b) if Tenant is late in making any payment due to Landlord from Landlord under this Lease for more than five (5) days, then interest shall become due and owing to Landlord on such payment from the date when it was due computed at the following rates:

(i) For an individual or partnership tenant, computed at the maximum legal rate of interest;

(ii) for a corporate tenant, computed at three (3%) percent per annum over the then prime rate of Citibank, N.A., or its successor, but in no event in excess of the maximum legal rate of interest chargeable to corporations in the State of New York.

29.02 Bills for any reasonable out-of-pocket expenses incurred by Landlord in connection with any such performance by it for the account of Tenant, and bills for all reasonable out-of-pocket costs, expenses and disbursements of every kind and nature whatsoever, including reasonable counsel fees, involved in collecting or endeavoring to collect the Fixed Rent or Additional Rent or any part thereof or enforcing or endeavoring to enforce any rights against Tenant, under or in connection with this Lease, or pursuant to law, including any such cost,

expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished, or rendered, by Landlord or at its instance to Tenant, may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and such amounts shall be due and payable in accordance with the terms of such bills, but not sooner than thirty (30) days after the rendering of such bills, together with reasonable documentation with respect to such expenses. Notwithstanding anything to the contrary contained in this Section, Tenant shall have no obligation to pay the costs, expenses or disbursements of Landlord in any proceeding in which there shall have been rendered a final judgment against Landlord, and the time for appealing such final judgment shall have expired (the "**Appeal Deadline**") and, within thirty (30) days following the Appeal Deadline, Landlord shall reimburse to Tenant any amounts on account thereof that were previously paid by Tenant to any such party together with interest thereon at the Base Rate calculated from the date such amounts were paid by Tenant until the date on which Tenant is so reimbursed in full

ARTICLE 30

Brokers

30.01 Landlord and Tenant covenant, warrant and represent to each other that there were no brokers or finders (the "**Brokers**") instrumental in consummating this Lease and that no conversations or negotiations were had with any Brokers concerning the renting of the Demised Premises. Landlord and Tenant each agree to indemnify and hold the other party harmless from and against any claims or suits for a brokerage commission or finder's fee arising out of any conversations or negotiations had by the indemnifying party, as the case may be, with any Brokers.

ARTICLE 31

Notices

31.01 In order for the same to be effective, each and every notice, request or demand permitted or required to be given by the terms and provisions of this Lease, or by any laws and/or requirements of public authorities, either by Landlord to Tenant or by Tenant to Landlord (any of the foregoing being referred to in this Article 31 as a "**Notice**"), shall be given in writing, in the manner provided in this Section 31.01, unless expressly provided otherwise elsewhere in this Lease. All Notices shall be delivered by hand or by a nationally recognized overnight courier, and shall be deemed to have been delivered on the date of receipt thereof (or the date that such receipt is refused, if applicable). In the case of Notices given by Landlord to Tenant, any such Notice shall be addressed to Tenant at the following address: _____ to the attention of _____, with a copy to _____, Attention: _____. In the case of Notices given by Tenant to Landlord, any such Notice shall be addressed to Landlord as follows: 1879 Madison Avenue, New York, New York 10035, Attn: _____, with a copy to: Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019, Attention: Charles E. Simpson, and with copies thereof delivered as aforesaid to any additional parties designated in accordance with Section 6.02. Either party may, by notice as aforesaid, designate a different address or addresses for Notices.

31.02 Notices may be given on behalf of Landlord by Windels Marx Lane & Mittendorf, LLP and on behalf of Tenant by Manatt, Phelps & Phillips, LLP.

ARTICLE 32
Estoppel Certificate, Memorandum

32.01 (a) Tenant agrees, at any time and from time to time, as requested by Landlord, upon not less than ten (10) business days' prior notice, to execute and deliver to Landlord a statement certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (b) certifying the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Landlord is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Landlord may be dealing.

(b) Landlord agrees, at any time and from time to time, as requested by Tenant, upon not less than ten (10) business days' prior notice, to execute and deliver to Tenant a statement certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, and (ii) the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Tenant is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Tenant may be dealing.

ARTICLE 33
Arbitration

33.01 Either party may request arbitration of any matter in dispute wherein arbitration is expressly provided in this Lease as the appropriate remedy. The party requesting arbitration shall do so by giving notice to that effect to the other party, and both parties shall promptly thereafter jointly apply to the American Arbitration Association (or any organization successor thereto) in the City and County of New York for the appointment of a single arbitrator.

33.02 The arbitration shall be conducted in accordance with the then prevailing rules of the American Arbitration Association (or any organization successor thereto) in the City and County of New York. In rendering such decision and award, the arbitrator shall not add to, subtract from or otherwise modify the provisions of this Lease.

33.03 If for any reason whatsoever a written decision and award of the arbitrator shall not be rendered within sixty (60) days after the appointment of such arbitrator, then at any time thereafter before such decision and award shall have been rendered either party

may apply to the Supreme Court of the State of New York or to any other court having jurisdiction and exercising the functions similar to those now exercised by such court, by action, proceeding or otherwise (but not by a new arbitration proceeding) as may be proper to determine the question in dispute consistently with the provisions of this Lease.

33.04 The expenses of the arbitration shall be borne by the party that is not the prevailing party, except that each party shall be responsible for the fees and expenses of its own counsel.

ARTICLE 34

No Other Representations; Construction; Governing Law; Consents; Lease Not Binding Unless Executed and Delivered; No Recording

34.01 Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement which may be made between the parties concurrently with the execution and delivery of this Lease and shall expressly refer to this Lease. This Lease and said other written agreement(s) made concurrently herewith are hereinafter referred to as the "lease documents". It is understood and agreed that all understandings and agreements heretofore had between the parties are merged in the lease documents, which alone fully and completely express their agreements and that the same are entered into after full investigation, neither party relying upon any statement or representation not embodied in the lease documents, made by the other. Tenant and Landlord each represent that is has the right, power and authority to enter into this Lease, and that the party executing this Lease on such party's behalf has due authority, and no third party consent is required in connection therewith.

34.02 If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

34.03 This Lease shall be governed in all respects by the laws of the State of New York.

34.04 Wherever in this Lease Landlord's consent or approval is required, if Landlord shall refuse such consent or approval, Tenant in no event shall be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, for specific performance, injunction or declaratory judgment.

34.05 Submission of this Lease for execution shall confer no rights nor impose any obligations on either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties.

34.06 Tenant covenants and agrees that it shall not place of record this Lease or a memorandum thereof and that the placement of record of this Lease or a memorandum thereof by Tenant shall constitute the breach by Tenant of a material covenant of this Lease.

34.07 Tenant, at Tenant's sole cost and expense, shall have the right to install a sign on the entrance doors to the Demised Premises, which sign (the content, location and materials of which) shall be subject to the terms hereof, and Landlord's prior consent, not to be unreasonably withheld or delayed.

ARTICLE 35 **Parties Bound**

35.01 The obligations of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 8 shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 24. However, the obligations of Landlord under this Lease shall not be binding upon Landlord herein named with respect to any period subsequent to the transfer of its interest in the Building as owner or lessee thereof and in event of such transfer said obligations shall thereafter be binding upon each transferee of the interest of Landlord herein named as such owner or lessee of the Building, but only with respect to the period ending with a subsequent transfer within the meaning of this Article.

35.02 If Landlord shall be an individual, joint venture, tenancy in common, co-partnership, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Tenant shall look only to such Landlord's estate and property in the Building, any insurance or condemnation proceeds with respect thereto, the sales proceeds thereof, and, where expressly so provided in this Lease, to offset against the Rents payable under this Lease, for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of such Landlord or any partner, member, officer or director thereof, disclosed or undisclosed shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord's and Tenant hereunder or Tenant's use or occupancy of the Demised Premises.

ARTICLE 36 **Certain Definitions and Construction**

36.01 For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires the definitions set forth in the Exhibits annexed hereto shall be utilized.

36.02 The various terms which are italicized and defined in other Articles of this Lease or are defined in Exhibits annexed hereto, shall have the meanings specified in such other Articles and such Exhibits for all purposes of this Lease and all agreements supplemental thereto, unless the context shall otherwise require.

ARTICLE 37
Adjacent Excavation—Shoring

37.01 If an excavation or other substructure work shall be made upon land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Demised Premises for the purpose of doing such work as shall be necessary to preserve the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement or Rent. In the event that Landlord or its employees or contractors shall perform or cause to be performed such work, Landlord shall use reasonable efforts to cause the foregoing to be performed in such a manner as to minimize interference with Tenant's operation of its business in the Demised Premises

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: _____
Name:
Title:

TENANT:

Institute for Family Health, Inc.,
a New York not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

EXHIBIT B

DEMISED PREMISES

EXHIBIT C

TERMS OF GROUND LEASE OF ANNEX BUILDING

EXHIBIT D

TENANT ELECTRICAL EQUIPMENT

Attachment #

9 - 11 - A - 5

Square Footage

Total Square Footage occupied by Article 28 - 27,118 sq ft.

Total Square Footage Building - 274,623 sq ft.

Real Estate - Management - Leasing - Development - Sales

1825 Park Avenue New York, NY 10035 (212) 410-4545

Fax (212) 410-7293

GISCOMBE REALTY
GROUP LLC.

April 1, 2010

Paul T. Galese
Alvarez & Marsal
55 West Monroe Street, Suite 3700
Chicago, IL 60603

Dear Mr. Galese:

For your information I've listed below some recent rents on office leases that took place in Harlem.

1. Saint Lukes Hospital
2771 Frederick Douglass Boulevard, NY, NY
Leased 3,000 Square Feet @ \$30 per square foot
Signed a lease 9/4/09
2. Con Edison
122 East 124th Street, NY, NY
Leased 12,500 Square Feet @ \$29 per square foot
Signed a lease 6/10/09
3. Learn It Systems
1825 Park Avenue, NY, NY
Leased 2,425 square feet @ \$35 per square foot
Signed a lease in 2009
4. Single Stop USA
1825 Park Avenue, NY, NY
Leased 4,500 square feet @ \$35 per square foot
Signed a lease in 8/14/08

If you have any questions, feel free to contact me anytime.

Sincerely,

Jeffrey Schettino →



April 21, 2010

To: Ron Winters, Paul Gallese, Restructuring - Healthcare Investigatory

From: Seth Markowitz

Re: North General Hospital - Fair Market Rent and Estimated Expenses

The subject property is North General Hospital comprised of approximately 255,000 gross square feet and a 28,000 square foot annex building. The premises in question concern a reported 17,000 (to possibly over 22,000) square foot space (actual size to be determined), known as "the demised premises" that are intended to be leased to the Institute for Family Health. The demised premises are reportedly built-out as medical office use with plumbing in most rooms and in "turn-key" condition. North General Hospital is situated in the Harlem Office market which is comprised of office product which, relative to other Manhattan submarkets, varies widely in quality and location. Estimates contained herein pertain to the demised premises of 17,000 to 22,000 square feet. Larger/smaller spaces on other floors and/or spaces leased to varying uses other than medical office, may feature varying market rents.

This analysis intends to:

Section 1) Provide market evidence and conclude to a market rent for the demised premises.

Section 2) Estimate market expenses for three "use" scenarios.

Section 1

Fair Market Rent – Comparable Evidence and Market Support

The following leases represent transactions comparable to medical office space at North General Hospital. According to local office brokers Jeff Schettino and Elizabeth Martin, premiums for medical office relative to general office use are non-existent in the Harlem office market.

Comparable Rents

	Square Feet	\$/sf	Lease Signed	Term	Expenses	TI's	Esc	Free Rent
Saint Lukes Hospital 2771 Frederick Douglas Blvd NY NY	3,000	30	9/4/2009	15 years	Tenant pays Electric + Taxes over BY	None	3%	6 months
Park Ave Medical 1767 park ave	5,000	18	5/5/2009	5 Years	Tenant pays direct elec. Exp over BY Tax	Tenant performed approx \$45/sf in build-out	\$1.75 bumps equating to \$18/sf	6 months
Learn It Systems 1825 Park Avenue NY NY	2,425	35	2009	3 years	Tenant pays add'l 3.50/sf for elec	None	3%	None
Single Stop USA 1825 Park Avenue NY NY	4,500	35	8/14/2008	5 Years	Tenant pays add'l 3.50/sf for elec	\$60k HVAC system	3%	3 months

Lease #1 was leased to Saint Luke's Hospital at a rate of \$30 per square foot with standard escalations of 3% and 6 months free rent. The space is ground floor with street access, reportedly similar to the subject site.

Lease #2 was leased to Park Ave Medical for medical office use. Tenant was responsible for all build-out.

Lease #3 was leased to a general office use tenant with no build-out reportedly required. As the space was not separately metered for electricity, the tenant was billed a flat fee of \$3.50/sf per year.

Lease #4 was leased to a general office use tenant with no build-out reportedly required. As the space was not separately metered for electricity, the tenant was billed a flat fee of \$3.50/sf per year.

The above leases were verified with parties involved in the transactions.

Fair Market Rent – Net Effective Rent and Market Rent Conclusion

The following table reflects the net effective rent of the lease comparables as they are applied to the subject space. Net effective rent is defined as "the amount of rent a tenant actually pays when extra improvement allowances and other concessions are taken into account". Therefore, the effective rent reflects the true range of typical office space in the subject market after all variables are quantified and adjusted.

Rent	Adjustment	Effective Rent	Adjustment Description
\$30	-1.00	\$28.00	Downward adjustment for 6 months free rent
\$18	8.92	\$26.92	Upward adjustment for amortized tenant's build-out and downward adjustment for free rent.
\$35	0	\$35.00	No adjustments
\$35	-3.16	\$31.84	Downward adjustment for HVAC Unit in TI's (\$60K amortized over 5 years at 6% interest)
		\$30.00	Concluded Market Rent

In conclusion, the net effective rent indicates a range of \$26.92 to \$35.00 per square foot for the subject space. A market rent selection at the midpoint of the range of \$30.00 per square foot is considered reasonable. In addition to evidence provided in the above lease analysis, the rate of \$30 per square foot was verified with local market experts: Jeff Schettino of Giscombe Realty, Elizabeth Martin of EL Martin Partners and Steven Sunderland of Optimal Spaces, all of which lease office space in the Harlem Office Market. The market rent selection of \$30.00 per square foot includes all expenses except for electricity and taxes (which are typically marginal). According to Steven Sunderland of Optimal Spaces, a range in rental rates between \$18 and \$45 per square foot are feasible for the space and is dependent upon specific users looking for space during the marketing period.

In the case of the lease in question (Institute for Family Health) an additional flat fee for utilities of between \$3.50 psf to \$5.12 psf would be appropriate. The lower end of the range of \$3.50 is exhibited in lease comparables #3 and #4 as the flat amount charged to tenants for general office use. \$5.12 psf is the higher end of the range as it represents the expenditure per square foot for the range of medians and means for the space. To equate the subject space to the indicated comparable rents, an "additional rent" is included to account for utilities (and "would-be" BY Tax escalations) as the demised premises is not separately metered. A range for additional rent/utilities between \$4.00 and \$4.50 psf would be appropriate to equate the subject space to market rent.

Section 2

Estimated Expenses (Three Scenarios)

The subject property was formerly occupied by North General Hospital and was operated as round-the-clock ambulatory, medical and hospital use. There are three scenarios presented in the following chart to estimate expenses attributed to real estate / non-going concern expenses. Please note that the appraiser is not qualified to estimate expenses of the property as a hospital due to lack of comparable data. The expenses provided are actual for the subject facility when operated as a hospital. The chart following the below descriptions estimates:

Scenario 1) As-If Vacant - Reported expenses of the going concern are compared to the BOMA 2008 report on New York Office buildings. The subject expenses exhibit the going concern of a building as a hospital. The indicated BOMA expenses are provided and subsequently adjusted to reflect the operation of the subject facility as-is vacant. Where appropriate, expenses are selected based on BOMA conclusions or expenses provided from YE 2008 financials of the property when operated as a hospital.

Scenario 2) An estimate of yearly expenses attributed to the demised 17,000 to 23,000 +/- square feet with the intended use as a medical office facility. Estimated expenditures were applied to the demised premises. Reportedly, the demised premises could be extended to over 20,000 square feet, in which case the expenditure per square foot would be applied to that size space. Where appropriate, expenses are selected based on BOMA conclusions or expenses provided from YE 2008 financials of the property when operated as a hospital.

Scenario 3) An estimate of expenditures of the facility as if leased to a nursing facility. – Expenditures are based upon comparables of nursing facilities throughout New York State and reflect an allocation of those expenditures to the real estate only.

	BOMA 2009 Experience Exchange Report (As Office) Total Bidg Rentable Area			BOMA 2009 Experience Exchange Report (As Office) Total Office Rentable Area			Scenario 1 AS A VACANT BUILDING (Estimated)			Scenario 2 Yearly Expenses for the Demised/To be Leased Premises (Estimated)			Scenario 3 Entire Building as Nursing Facility		
	Yearly	\$/sf	Avg	Median	Avg	Median	\$/sf	Yearly	\$/sf	Yearly	\$/sf	Yearly	\$/sf	Yearly	
Cleaning	449,960	\$1.59	\$2.77	\$2.90	\$2.87	\$2.90	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	
R&M (incl payroll)	2,185,021	7.72	3.22	3.38	3.49	3.38	\$849,000	\$849,000	\$3.00	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Utilities (Subtotal of Below)	1,564,530	5.53	3.79	4.13	5.12	4.13	Incl Below	Incl Below	Incl Below	Incl Below	Incl Below	Incl Below	Incl Below	Incl Below	
Electricity	509,115	1.80	incl above	incl above	incl above	incl above	424,500	424,500	4.25	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Gas	111,375	0.39	incl above	incl above	incl above	incl above	67,920	67,920	1.00	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Water Sewer	1,549,667	5.48	incl above	incl above	incl above	incl above	111,375	111,375	0.25	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Security	473,447	1.67	0.98	0.94	1.04	0.94	283,000	283,000	1.00	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Management	N/A	N/A	0.27	0.36	0.50	0.36	70,750	70,750	0.41	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Admin	Exempt	N/A	0.99	1.03	1.06	1.03	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	
Taxes	615,040	2.17	7.20	7.20	7.98	7.20	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt	
Insurance	N/A	N/A	0.52	0.56	0.73	0.56	283,000	283,000	1.00	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Reserves	N/A	N/A	0.52	0.56	0.73	0.56	251,870	251,870	\$0.89	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	Rate x Sq Ft	
Total	\$ 7,008,195	\$ 24.76	\$21.10	\$19.69	\$22.79	\$20.50	\$8.27	\$2,341,415	\$11.80	N/A	\$ 11.35	\$ 3,212,050	\$ 11.35	\$ 3,212,050	

Reserves for Office Buildings range from \$0.10 to \$1.00 psf and average \$0.36 psf (per 1st Qtr 2010 Korpacz Survey)
 Cleaning per BOMA includes all Payroll, taxes, Fringes, Routine Contracts, Window Washing

Client: Martin Winter, Ron Winters, Paul Gallese,
Restructuring - Healthcare Investigatory

Date of Report: April 21, 2010

Subject Property 1879 Madison Avenue New York, NY 10035

Intended Users: Alvarez and Marsal -Healthcare Investigatory

Intended Use: To assist Healthcare Investigatory Group with internal decision making and budgeting.

Objective of the Assignment: To develop an opinion of market rent for one portion of the subject facility and an estimate of expenses.

Effective Date of Value Opinion: April 21, 2010

Interest Valued: Market Rent

Conditions of the Assignment:

Extraordinary Assumptions: None

Hypothetical Conditions: None

Opinion of Market Rent: \$30 psf + \$4.25 in Additional Rent per Year

Based on the scope of work cited below, as of the effective date noted, and subject to the extraordinary assumptions and hypothetical conditions listed.

SCOPE OF WORK

In preparing this appraisal, the appraiser

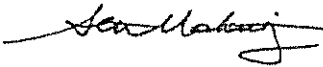
- Did not inspect the subject site and assumes the property to be in adequate condition that is ready for occupancy, as reported to appraiser;
- gathered information on, rents and operating expenses
- confirmed all rental information with at least one of the parties to the transaction;
-

This report is a Summary Appraisal Report in accordance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice. As such, it presents sufficient information to enable the client and other intended users, as identified, to understand it properly.

Certification:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
 - the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
 - I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
 - I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
 - my engagement in this assignment was not contingent upon developing or reporting predetermined results.
 - my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
 - my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
 - I have not made a personal inspection of the property that is the subject of this report
 - No one provided significant real property appraisal assistance to the person signing this certification.
-
- I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
 - I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
 - As of the date of this report, I have completed the continuing education program of the Appraisal Institute.



Seth Markowitz

New York State Certified General Appraiser # 46000042433

Attachment 9-11-B-1
Sources of Cash for Year 1

TYPE	AMOUNT	EXPLANATION
Government Grants	\$7, 000, 000	Operating Loss, Working Capital and Start up. The Implementation of this program is dependent upon the approval of HEAL Grant Funding from NYS DOH.
<hr/>		
TOTAL CASH	\$7, 000, 000	

McGladrey & Pullen
Certified Public Accountants

The Institute for Family Health, Inc.

Financial Report

December 31, 2008

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Introduction

Background

The Institute for Family Health, Inc. (the "Institute") is an organization located in New York City that provides medical and healthcare services through the development and operation of family practice centers located in Manhattan, Bronx, Dutchess and Ulster counties and provides residency medical training in New York City and Kingston, New York and other health research programs.

Scope of Audit

The financial audit of the Institute was performed in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. The audit covered the 12-month period ended December 31, 2008 and fieldwork was performed during the period from February 23, 2009 to March 27, 2009.

The following were the principal objectives of the organization-wide audit:

- The expression of an opinion on the balance sheet as of December 31, 2008, and the related statements of operations and changes in net assets, functional expenses, and cash flows for the year then ended;
- The expression of an opinion on the schedule of expenditures of federal awards for the year ended December 31, 2008;
- The assessment of the Institute's internal accounting and administrative control structures;
- The performance of cost validations of transaction costs on a test basis;
- The assessment, on a test basis, of the Institute's compliance with the prescribed U.S. Department of Health and Human Services cost principles (45 CFR 74, as amended, subpart Q) for selected functional types of costs; and
- To ascertain whether costs claimed for funding under specific grants are fairly presented in conformity with the terms of the grant and related U.S. Department of Health and Human Services cost principles.

McGladrey & Pullen

Certified Public Accountants

Independent Auditor's Report

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the accompanying balance sheet of The Institute for Family Health, Inc. (the "Institute") as of December 31, 2008, and the related statements of operations and changes in net assets, functional expenses, and cash flows for the year then ended. These financial statements are the responsibility of the Institute's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of The Institute for Family Health, Inc. as of December 31, 2008, and the changes in its net assets and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 30, 2009 on our consideration of the Institute's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Balance Sheet
December 31, 2008

ASSETS

Current Assets:

Cash and cash equivalents	\$ 2,843,061
Investments at fair value	
Patient services receivable, net of allowances of approximately \$14,768,000	13,276,525
Grant and contract receivables (Note 3)	2,777,324
Hospital service contracts receivable	500,493
Other receivables	1,052,359
Prepaid expenses and other current assets	833,378

Total current assets 21,283,140

Goodwill 2,998,806

Deferred Bond Issue Cost 726,098

Debt Service Reserve Fund 847,152

Property and Equipment, net (Note 4) 7,004,665

Total assets \$ 32,859,861

LIABILITIES AND UNRESTRICTED NET ASSETS

Current Liabilities:

Accounts payable and accrued expenses	\$ 4,996,335
Accrued compensation	1,830,771
Current maturities of long-term debt (Note 6)	528,067
Loan payable (Note 5)	630,000
Refundable advances	1,528,903

Total current liabilities 9,514,076

Loan Payable (Note 5) 800,000

Long-term Debt, less current maturities (Note 6) 8,226,884

Total liabilities 18,540,960

Commitments and Contingencies (Notes 4, 10 and 11)

Unrestricted Net Assets 14,318,901

Total liabilities and unrestricted net assets \$ 32,859,861

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Operations and Changes in Net Assets
Year Ended December 31, 2008

Revenue:	
Patient services, net (Note 7)	\$ 33,532,072
Hospital service contracts (Note 8)	4,567,608
Grants and contracts (Note 9)	12,481,400
Management fees	126,472
Unrealized loss on investments	(278,260)
Interest and dividend income	81,288
Other	854,296
	<hr/>
Total revenue	51,364,876
	<hr/>
Expenses:	
Salaries and benefits	34,896,190
Other than personnel services	12,350,587
Interest	732,043
Provision for bad debts	2,048,443
	<hr/>
Total expenses	50,027,263
	<hr/>
Operating income prior to depreciation and amortization	1,337,613
	<hr/>
Depreciation and Amortization	740,047
	<hr/>
Operating income	597,566
	<hr/>
Unrestricted Net Assets:	
Beginning	13,721,335
	<hr/>
Ending	\$ 14,318,901
	<hr/>

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Functional Expenses
Year Ended December 31, 2008

	Program Services	General and Administrative	Total
Salaries and wages	\$ 25,005,837	\$ 4,643,332	\$ 29,649,169
Fringe benefits	3,349,950	1,897,071	5,247,021
Consultants and contractual services	2,794,845	762,464	3,557,309
Professional fees	-	552,452	552,452
Travel, conferences and meetings	350,403	143,238	493,641
Occupancy	2,305,352	880,346	3,185,698
Consumable supplies	2,462,030	213,397	2,675,427
Insurance	373,852	36,366	410,218
Equipment rental and maintenance	223,418	65,789	289,207
Printing, publications and postage	83,003	87,192	170,195
Dues	191,628	28,726	220,354
Interest	542,574	189,469	732,043
Provision for bad debts	2,048,443	-	2,048,443
Other	454,852	341,234	796,086
	40,186,187	9,841,076	50,027,263
Depreciation and amortization	610,874	129,173	740,047
Total functional expenses	\$ 40,797,061	\$ 9,970,249	\$ 50,767,310

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Cash Flows
Year Ended December 31, 2008

Cash Flows From Operating Activities:	
Cash received from patient services	\$ 28,632,771
Cash received from hospital service contracts	4,331,057
Cash received from grants and contracts	13,412,514
Cash received from other	854,296
Cash received from management services	126,472
Interest and dividend income	81,288
Cash paid for interest	(732,043)
Cash paid for operations	<u>(48,563,160)</u>
Net cash used in operating activities	<u>(1,856,805)</u>
Cash Flows From Investing Activities:	
Purchase of property and equipment	(132,265)
Decrease in debt service reserve	<u>203,089</u>
Net cash provided by investing activities	<u>70,824</u>
Cash Flows From Financing Activities:	
Proceeds on line of credit	332,554
Repayments of long-term debt	<u>(845,893)</u>
Net cash used in financing activities	<u>(513,339)</u>
Net decrease in cash and cash equivalents	(2,299,320)
Cash and Cash Equivalents:	
Beginning	<u>5,142,381</u>
Ending	<u><u>\$ 2,843,061</u></u>
Reconciliation of Increase in Unrestricted Net Assets to Net Cash Used in Operating Activities:	
Increase in unrestricted net assets	<u>\$ 597,566</u>
Adjustments to reconcile increase in unrestricted net assets to net cash used in operating activities:	
Depreciation and amortization	740,047
Provision for bad debts	2,048,443
Unrealized loss on investments	128,551
Changes in operating assets and liabilities:	
Increase in patient services receivable, net	(4,899,301)
Decrease in grants and contracts receivable	233,066
Increase in hospital service contracts receivable	(236,551)
Increase in other receivables	(1,319,710)
Decrease in prepaid expenses and other current assets	176,563
Decrease in accounts payable and accrued expenses	(73,448)
Decrease in accrued compensation	(99,788)
Increase in refundable advances	<u>847,757</u>
Total adjustments	<u>(2,454,371)</u>
Net cash used in operating activities	<u>\$ (1,856,805)</u>
Noncash Transactions:	
Donated stock	<u><u>\$ 149,709</u></u>

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 1. Organization

The Institute for Family Health, Inc. (the "Institute") is a New York not-for-profit corporation that provides medical and healthcare services through the development and operation of family practice centers located in Manhattan, Bronx, Dutchess and Ulster counties and provides residency medical training in New York City and Kingston, New York and other health research programs.

Note 2. Significant Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

The Institute maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Institute has not experienced any losses in such accounts. Cash equivalents are short-term investments with a maturity of three months or less.

Patient services receivable are reported at their outstanding unpaid principal balances reduced by an allowance for doubtful accounts. The Institute estimates doubtful accounts based on historical bad debts, factors related to specific payors' ability to pay and current economic trends. The Institute writes off accounts receivable against the allowance when a balance is determined to be uncollectible.

Goodwill represents the excess of the acquisition cost of businesses over the fair value of the identifiable net assets acquired. The Institute applies SFAS No. 142, *Goodwill and Other Intangible Assets*, and, accordingly, does not amortize goodwill but tests it for impairment. The Institute performs impairment testing for goodwill annually, or more frequently when indicators of impairment exist, using a two-step approach. Step one compares the fair value of the net assets of the relevant reporting unit (calculated using a discounted cash flow method) to its carrying value, a second step is performed to compute the amount of the impairment. In this process, a fair value for goodwill is estimated based in part on the fair value of the operations, and is compared to its carrying value. The shortfall of the fair value below carrying value represents the amount of goodwill impairment.

Property and equipment is recorded at cost. Depreciation is recorded on a straight-line basis over the estimated useful lives of the assets ranging from 5 to 40 years. Leasehold improvements are amortized on a straight-line basis over the estimated useful life of the improvement or the term of the lease, whichever is less. The Institute capitalizes all repairs over \$1,000.

Contributions are recorded as either temporarily or permanently restricted revenue if they are received with donor stipulations that limit the use of the donated asset. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted assets are reclassified to unrestricted net assets and reported in the statement of operations and changes in net assets as net assets released from restrictions. Donor-restricted contributions whose restrictions expire during the same fiscal year are recognized as unrestricted revenue.

Patient services revenue is reported at the estimated net realizable amounts from patients, third-party payors and others for services rendered. Self-pay revenue is recorded at published charges with charitable allowances deducted to arrive at net self-pay revenue. All other patient services revenue is recorded at published charges with contractual allowances deducted to arrive at patient services, net. In 2008, income derived from the Medicaid program accounted for approximately 18% of net patient services fees.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 2. Significant Accounting Policies (Continued)

Revenue from government grants and contracts designated for use in specific activities is recognized in the period when expenditures have been incurred in compliance with the grantor's restrictions. Grants and contracts awarded for the acquisition of long-lived assets are reported as unrestricted nonoperating revenue, in the absence of donor stipulations to the contrary, during the fiscal year in which the assets are acquired. Cash received in excess of revenue recognized is recorded as refundable advances. At December 31, 2008, the Institute has received conditional grants and contracts from governmental entities in the aggregate amount of \$7,281,172 that have not been recorded in these financial statements. These grants and contracts require the Institute to provide certain healthcare services during specified periods. If such services are not provided during the periods, the governmental entities are not obligated to expend the funds allotted under the grants and contracts.

The Institute was incorporated as a not-for-profit corporation under the laws of the State of New York and is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code. Therefore, there is no provision for income taxes.

In June 2006, the Financial Accounting Standards Board (the "FASB") issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes - an interpretation of FASB Statement No. 109* ("FIN 48"). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB Statement No. 109, *Accounting for Income Taxes*. FIN 48 prescribes a comprehensive model for recognizing, measuring, presenting and disclosing in the financial statements tax positions taken or expected to be taken on a tax return including positions that the organization is exempt from income taxes or not subject to income taxes on unrelated business income. If there are changes in net assets as a result of application of FIN 48, these will be accounted for as an adjustment to the opening balance of net assets. Additional disclosures about the amounts of such liabilities will be required also. The Institute presently discloses or recognizes income tax positions based on management's estimate of whether it is reasonably possible or probable, respectively, that a liability has been incurred for unrecognized income tax benefits by applying FASB Statement No. 5, *Accounting for Contingencies*. The Institute has elected to defer the application of FIN 48 in accordance with FASB Staff Position ("FSP") FIN 48-3. This FSP defers the effective date of FIN 48 for nonpublic enterprises, such as the Institute, included within its scope to the annual financial statements for fiscal years beginning after December 15, 2008. The Institute will be required to adopt FIN 48 in its 2009 annual financial statements. Management is currently assessing the impact of FIN 48 on its financial position and results of operations and has not determined if the adoption of FIN 48 will have a material effect on its financial statements.

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("SFAS No. 157"). SFAS No. 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurement. SFAS No. 157 also emphasizes that fair value is a market-based measurement, not an entity-specific measurement, and sets out a fair value hierarchy with the highest priority being quoted prices in active markets. Under SFAS No. 157, fair value measurements are disclosed by level within that hierarchy. In February 2008, the FASB issued FASB Staff Position No. 157-2, *Effective Date of FASB Statement No. 157*, which permits a one-year deferral for the implementation of SFAS No. 157 with regard to nonfinancial assets and liabilities that are not recognized or disclosed at fair value in the combined financial statements on a recurring basis. The Institute adopted SFAS No. 157 for the fiscal period beginning January 1, 2008, except for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the combined financial statements on a nonrecurring basis for which delayed application is permitted until our fiscal year beginning January 1, 2009. The adoption of the remaining provisions of SFAS No. 157 is not expected to have a material impact on the Institute's financial position, results of operations or cash flows.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 3. Grants and Contracts Receivable

Grants and contracts receivable consist of the following as of December 31, 2008:

U.S. Department of Health and Human Services (the "DHHS"):	
Reach - Diabetes Coalition Grant	\$ 62,879
New York Reach CEED	187,236
HRSA Health Information Technology Innovations	11,120
New York State Department of Health (the "NYSDOH"):	
Office of Managed Care	37,769
NYSDOH School Health	26,551
NYSDOH Healthy Hearts Program	19,865
NYSDOH Community Health Worker Program	48,013
NYS Rural Health Network	158,939
Center of Excellence	239,615
Department of Social Services of the Human Resources Administration:	
Federation Employment and Guidance Service, Inc.	420,307
Health Care for the Homeless Project	96,794
Area Health Education Center Program (HRSA)	29,718
NYS Office for Children and Family Services Healthy Start - Ulster County	599,016
NYS Office for Children and Family Services Health Families - Dutchess	76,521
Ryan White Title I, MHRA (Maintenance in Care)	26,972
Ryan White Title I (Treatment Adherence)	75,760
Dutchess County HIV Ryan White	36,797
New York State Office of Mental Health	79,350
Health Workforce Retraining Initiative	39,236
Ali Forney Center	34,671
Family Medical Services	40,000
Kingston Residency Program	144,083
Other	286,112
	<hr/>
	\$ 2,777,324
	<hr/>

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 4. Property and Equipment, Net

Property and equipment, net, at cost, consists of the following at December 31, 2008:

Land	\$	225,000
Building and building improvements		7,859,672
Leasehold improvements		3,115,474
Furniture and equipment		<u>8,070,467</u>
		19,270,613
Accumulated depreciation and amortization		<u>(12,265,948)</u>
	\$	<u>7,004,665</u>

In the event the DHHS grants are terminated, the DHHS reserves the right to transfer all property and equipment purchased with grant funds and/or grant-related income to the Public Health Service (the "PHS") or third parties.

Note 5. Loan Payable

In November 2007, the Institute entered into a line of credit in the amount of \$1,500,000, secured by the gross receipts of the Institute. As of October 31, 2008 the line of credit was modified to a note with \$630,000 due in October 31, 2009 and the remaining \$800,000 due in October 31, 2010. There was an outstanding balance of \$1,430,000 at December 31, 2008. This agreement requires a fluctuating interest rate of 200 basis points per annum above the LIBOR until the maturity date.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 6. Long-Term Debt

Long-term debt consists of the following as of December 31, 2008:

Promissory note payable of \$562,500 to Primary Care Development Corporation, maturing April 1, 2010. Terms of the note provide for monthly payments of principal and interest, calculated at 5.5% until maturity.

\$ 162,470

Mortgage payable with the Ulster County Industrial Development Agency Bond (the "Bond"), which was transferred from Mid-Hudson, with a \$4,250,000 face amount, due July 1, 2023. The mortgage is payable in monthly installments of \$25,484 with interest at 5.35% per annum and administrative fees. This mortgage is secured by real property.

3,027,994

Mortgage payable with Primary Care Development Corporation ("PCDC") to finance the purchase of certain assets of Mid-Hudson, with a face amount of \$3,420,000. The maturity date of the mortgage is September 1, 2022, with principal and interest payable in monthly installments of \$30,549 at the stated interest rate of 6.90%. The mortgage is secured by the gross receipts, chattels and intangibles of the Institute.

3,238,141

Mortgage payable with PCDC to finance the purchase of certain assets of Mid-Hudson, with a face amount of \$2,380,000. The maturity date of the mortgage is September 1, 2022, with principal and interest payable in monthly installments of \$21,259 at the stated interest rate of 6.90%. The mortgage is secured by the gross receipts, chattels and intangibles of the Institute.

2,253,442

Various loans

72,904

8,754,951

Less current maturities of long-term debt

(528,067)

Long-term portion

\$ 8,226,884

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 6. Long-Term Debt (Continued)

The aggregate amount of future principal payments on long-term debt is as follows:

Years ending December 31.

2009	\$ 528,067
2010	479,629
2011	442,551
2012	471,970
2013	503,364
Thereafter	<u>6,329,370</u>
	<u>\$ 8,754,951</u>

Note 7. Patient Revenue

	<u>Gross Charges</u>	<u>Contractual and Charitable Allowances</u>	<u>Net Revenue</u>
Medicaid	\$ 6,553,705	\$ 723,805	\$ 5,829,900
Medicare	4,556,999	977,479	3,579,520
Other third-party payors	21,513,806	6,217,518	15,296,288
Self-pay	3,634,353	1,249,976	2,384,377
Managed care plans	<u>3,166,056</u>	<u>-</u>	<u>3,166,056</u>
	39,424,919	9,168,778	30,256,141
Pharmacy			379,947
Incentives			28,518
Medicaid Managed Care Transitional Funding			<u>2,867,466</u>
			<u>\$ 33,532,072</u>

Note 8. Hospital Service Contracts

Hospital service contracts consist of the following for the year ended December 31, 2008:

Beth Israel Medical Center contract	\$ 2,838,612
Kingston Residency	<u>1,728,996</u>
	<u>\$ 4,567,608</u>

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 9. Grants and Contracts Revenue

U.S. Department of Health and Human Services:	
New York Racial and Ethnic Approaches to Community Health 2010 CEED	\$ 859,704
330 Program, Health Center Cluster, Bureau of Primary Care, HRSA	3,000,593
NIH, National Center on Minority Health and Health Disparities	373,788
HRSA Health Information Technology Innovations	280,074
New York State Department of Health (NYSDOH):	
NYSDOH School Health	108,133
NYSDOH Healthy Hearts Program	74,415
NYSDOH Community Health Worker Program	222,614
NYS Rural Health Network	204,136
Health Workforce Retraining Initiative	168,538
NYC Department of Social Services of the Human Resources Administration:	
Federation Employment and Guidance Service, Inc.	1,404,163
NYS Area Health Education Center Program (HRSA)	75,998
Catskill Hudson Area Health Education Center Program (HRSA)	85,681
Medical and Health Research Association of New York City (MHRA):	
Ryan White Title I, MHRA (Outpatient Medical Care)	247,411
Ryan White Title I, MHRA (Maintenance in Care)	192,659
Ryan White Title I (Treatment Adherence)	186,499
Ryan White Title II, NYS AIDS Institute (Mental Health)	16,781
Ryan White Title II, BCSS	160,237
Dutchess County HIV Ryan White	184,108
New York City Department of Health and Mental Hygiene:	
Center of Excellence	119,615
Vaccines for Children Program	410,150
Health Care for the Homeless Project	493,116
NYS DOH Facilitated Enrollment	38,200
New York Community Trust	67,355
The Altman Foundation	46,742
Kingston School District	75,401
NYS Office for Children and Family Services Healthy Start - Ulster County	1,021,663
NYS Office for Children and Family Services Health Families - Dutchess	720,984

(continued)

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 9. Grants Revenue (Continued)

New York State Office of Mental Health	\$ 105,800
NYC DOHMH - HEAL I funds for EHR Innovations	129,804
Ali Forney Center	67,293
NYSDOH Diabetes Prevention and Control	73,676
Commonwealth Fund	118,471
Reproductive Health	104,368
National Association of Community Health Centers (HealthCorp)	30,228
New York State Health Care Reform Act	79,974
New York State Health Foundation - Diabetes Campaign	112,841
Epic grant	400,000
Other	420,187
	<hr/>
	\$ 12,481,400

Note 10. Pension Plan

The Institute has a noncontributory profit-sharing plan which covers all employees meeting certain eligibility requirements. Contributions to the plan are based on a percent of salaries. The board of directors voted to make a contribution to the profit-sharing plan for the year ended December 31, 2008 in the amount of \$400,000.

Note 11. Commitments and Contingencies

The Institute has contracted with various funding agencies to perform certain healthcare services and receives Medicaid and Medicare revenue from the state and federal governments. Reimbursements received under these contracts and payments under Medicaid and Medicare are subject to audit by federal and state governments and other agencies. Upon audit, if discrepancies are discovered, the Institute could be held responsible for refunding the amounts in question.

The Institute maintains its medical malpractice coverage under the Federal Tort Claims Act ("FTCA") for its Community Health Center program activities. FTCA provides malpractice coverage to eligible PHS-supported programs and applies to the Institute and its employees while providing services within the scope of employment included under grant-related activities. The Attorney General, through the U.S. Department of Justice, has the responsibility for the defense of the individual and/or grantee for malpractice cases approved for FTCA coverage. The Institute maintains gap insurance for claims that are not covered by FTCA.

Medicaid and Medicare revenue is reimbursed to the Institute at the net reimbursement rates as determined by each program. Reimbursement rates are subject to revisions under the provisions of reimbursement regulations. Adjustments for such revisions are recognized in the fiscal year incurred.

The Institute leases office space from Family Life Ventures and is charged a pro rata percentage of the building operating costs. For the year ended December 31, 2008, the Institute incurred \$437,711 during the year in rental costs. At December 31, 2008, a receivable of \$6,326, is due from Family Life Ventures and is included other receivables. Three employees/officers of the Institute are owners of Family Life Ventures.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 11. Commitments and Contingencies (Continued)

The Institute leases five other facilities. Occupancy expense for the year ended December 31, 2008 amounted to \$2,129,926. All facilities are operated under noncancelable operating leases requiring future minimum payments as follows:

Years ending December 31,

2009	\$ 220,575
2010	140,052
2011	13,310
2012	13,310
2013	13,310
Thereafter	<u>465,167</u>
	<u>\$ 865,724</u>

McGladrey & Pullen
Certified Public Accountants

The Institute for Family Health, Inc.

Internal Controls and Compliance Section

December 31, 2008

McGladrey & Pullen

Certified Public Accountants

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the financial statements of The Institute for Family Health, Inc. (the "Institute") as of and for the year ended December 31, 2008, and have issued our report thereon dated September 30, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting - In planning and performing our audit, we considered the Institute's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Institute's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Institute's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters - As part of obtaining reasonable assurance about whether the Institute's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the Institute in a separate letter dated September 30, 2009.

This report is intended solely for the information and use of the board of directors, management and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

McGladrey & Pullen

Certified Public Accountants

Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

Compliance - We have audited the compliance of The Institute for Family Health, Inc. (the "Institute") with the types of compliance requirements described in the U.S. Office of Management and Budget ("OMB") *Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended December 31, 2008. The Institute's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the Institute's management. Our responsibility is to express an opinion on the Institute's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Institute's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the Institute's compliance with those requirements.

In our opinion, the Institute complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended December 31, 2008.

Internal Control Over Compliance - The management of the Institute is responsible for establishing and maintaining effective internal control structure over compliance with the requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Institute's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance; but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Institute's internal control over compliance.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by any entity's internal control.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the board of directors, management and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Schedule of Findings and Questioned Costs
Year Ended December 31, 2008

Section I - Summary of Auditor's Results

Financial Statements

Type of auditor's report issued: Unqualified

Internal control over financial reporting:

- Material weakness(es) identified? yes no
- Significant deficiency(ies) identified that are not considered to be material weakness(es)? yes none reported

Noncompliance material to financial statements noted? yes no

Federal Awards

Internal control over major programs:

- Material weakness(es) identified? yes no
- Significant deficiency(ies) identified that are not considered to be material weakness(es)? yes none reported

Type of auditor's report issued on compliance for major programs: Unqualified

Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of Circular A-133? yes no

Identification of major program(s):

CFDA Number(s)

Name of Federal Program or Cluster

93.224
93.283
93.268
93.914
93.307
93.558

United States Department of Health and Human Services:
Consolidated Health Centers program
Center for Disease Control and Prevention:
Investigations and Technical Assistance
Immunization Grants
HIV Emergency Relief Project Grants
Minority Health and Health Disparities
Temporary Assistance for Needy Families

Dollar threshold used to distinguish between type A and type B programs: \$300,000

Auditee qualified as low-risk auditee? yes no

(continued)

The Institute for Family Health, Inc.

**Schedule of Findings and Questioned Costs
Year Ended December 31, 2008**

Section II - Financial Statement Findings

None

Section III - Federal Award Findings and Questioned Costs

None

The Institute for Family Health, Inc.

Status of Prior-Year's Findings
Year Ended December 31, 2008

Item #	Description of Condition	Status of Corrective Action
07-1	Bad Debt Write-offs	This action has been corrected in the current year.
07-2	Federal Drawdowns	This action has been corrected in the current year.
07-3	Financial Status Report	This action has been corrected in the current year.
07-4	Property Management Standards	This action has been corrected in the current year.

McGladrey & Pullen

Certified Public Accountants

Independent Auditor's Report on Supplementary Information - Schedule of Expenditures of Federal Awards

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the basic financial statements of The Institute for Family Health, Inc. for the year ended December 31, 2008, and those statements, together with our opinion thereon, appear in the first section of this report. Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Supplementary Information

Schedule of Expenditures of Federal Awards
Year Ended December 31, 2008

Federal Grantor/ Pass-Through Grantor/ Program Title	CFDA Number	Pass-Through Grantor's Number	Expenditures
U.S. Department of Health and Human Services:			
Consolidated Health Centers program:			
Direct program:			
Consolidated Health Centers program	93.224	N/A	\$ 3,280,668
Passed through Care for the Homeless:			
Consolidated Health Centers program	93.224	Not Available	<u>472,784</u>
Total Consolidated Health Centers program			3,753,452
Direct programs:			
New York Racial and Ethnic Approaches to Community Health 2010 CEED			
	93.283	5U58DP000943-02	859,704
Minority Health and Health Disparities			
	93.307	5R24MD001644-04	423,857
Mandated Health Information Technology Grants			
	93.888	1D1BIT10959-01	9,108
Passed through New York State Department of Health:			
Family Planning:			
Maternal and Child Health Services Block Grant	93.994	C022454/C021652	65,985
State Children's Health Insurance Program	93.767	Not Available	19,100
Medical Assistance Program (Medicaid)	93.778	C021363	130,407
Passed through New York State Department of Health:			
Division of Chronic Disease Prevention:			
Preventive Health and Health Services Block Grant	93.991	C020127	56,762
Passed through New York State Department of and Mental Hygiene:			
Center of Excellence	93.061	07HA1258007R0X00	119,615
Passed through Medical and Health Research Association of New York City:			
HIV Emergency Relief Project Grants	93.914	Various	816,163
Passed through Care for the Homeless:			
Passed through Health Research, Inc.:			
HIV Care Formula Grants	93.917	3428-01/001015-10	175,095
Passed through State University of New York at Buffalo:			
Basic/Core Area Health Education Services	93.824	Not Available	143,408
Passed through Ulster County Department of Social Services:			
Temporary Assistance for Needy Families	93.558	Various	1,186,103

(continued)

The Institute for Family Health, Inc.

Supplementary Information

Schedule of Expenditures of Federal Awards
Year Ended December 31, 2008

Federal Grantor/ Pass-Through Grantor/ Program Title	CFDA Number	Pass-Through Grantor's Number	Expenditures
Passed through National Association of Community Health Centers:			
New York Community HealthCorps	94.006	06AFNY0010007	\$ 90,746
Passed through Development Disability Planning Council:			
Development Disabilities Basic Support and Advocacy	93.630	C022068	36,326
Passed through the City of New York Department of Health and Mental Hygiene:			
Immunization Grants (Note 3)	93.268	Not Available	<u>410,150</u>
Total U.S. Department of Health and Human Services			8,295,981
Total Passed through the Department of Housing and Urban Development:			
Housing Opportunities for Persons with AIDS	14.241		<u>67,293</u>
Total			<u>\$ 8,363,274</u>

Note 1: Basis of Presentation

The accompanying schedule of expenditures of federal awards includes the federal grant activity of the Institute and is presented on the accrual basis of accounting. The information in this schedule is presented in accordance with the requirement of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Therefore, some accounts presented in this schedule may differ from the amounts presented in, or used in the preparation of, the basic financial statements.

Note 2: Subrecipients

Of the federal expenditures presented in this schedule, the Institute provided federal awards to sub recipients as follows:

Program Title	Federal CFDA Number	Agency or Pass-Through Grantor's Number	Amount Provided to Subrecipient
New York University	93.283	N/A	\$ 84,867
City Harvest	93.283	N/A	9,972
Marc Academy	93.283	N/A	20,000
Other	93.283	N/A	<u>68,400</u>
			<u>\$ 183,239</u>

Note 3: Nonmonetary Assistance

Of the federal expenditures presented in this schedule, the Institute received \$410,150 from CFDA # 93.268 and is a noncash item.

Attachment 9-11-B-6

Government Grants

AMOUNT

DESCRIPTION

\$7,000,000

This amount has been negotiated with the NYS DOH to effect this transition

New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment

For Article 28, 36, and 40 Construction Projects Requiring Full or Administrative Review *

Table I: New Equipment Description

Sub project Number	Functional Code	Description, including model, manufacturer, year of manufacturer where applicable.	Number of units	Lease or purchase?	Date of the end of the lease period	Lease Amount or Purchase Price
		Standard Exam Room Equipment				
		Exam Table, MGM, Model 204	5 P			\$ 22,500.00
		Trash Can	29 P			\$ 1,276.00
		Red Waste Trash Can	29 P			\$ 1,247.00
		Chair, Patient, Midmark 680-001-238	45 P			\$ 3,750.00
		Stool, Exam, Midmark 272-001-230	29 P			\$ 3,915.00
		Exam Light	29 P			\$ 5,800.00
		Diagnostic System, Welch Allyn, 76793	29 P			\$ 30,000.00
		Standard Exam Room Equipment Sub total	195			\$ 68,488.00
		Standard Dental Exam Room Equipment				
		Pneu. Asst. Stl, BRWCUS	4 P			\$ 1,600.00
		X-Ray System, Long arm with remote control, 770, Gendex	4 P			\$ 14,400.00
		Cavitron, Plus	4 P			\$ 7,500.00
		Curing Light, Maxima LED	4 P			\$ 1,710.00
		Amalgamator, touch pad	4 P			\$ 1,140.00
		Standard Dental Exam Room Equipment sub total	20			\$ 26,350.00
		Additional Medical Equipment				

New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment

	Sterilizer		1 p		\$ 4,000.00
	Centrifuge		1 p		\$ 210.00
	Bariatric Scale Digital 500 by Health-o-meter		3 p		\$ 894.00
	ECG, Atria 3100		2 p		\$ 6,600.00
	Incubator, Biological Steam		1 p		\$ 138.00
	Fetal Doppler		2 p		\$ 1,040.00
	Exam Table Power Base, Midmark 230-001		1 p		\$ 6,600.00
	Sonogram		1 p		\$ 75,000.00
	(CLIA) Coagucheck		2 p		\$ 2,200.00
	(CLIA) Hemocue Glucose		2 p		\$ 500.00
	(CLIA) Hemocue Analyzer		2 p		\$ 1,000.00
	(CLIA) Clinitek		2 p		\$ 1,550.00
	Additional Medical Equipment Sub total		20		\$ 99,732.00
	Additional Dental Equipment				
	Rear Swing Vac		4 p		\$ 3,312.00
	Air QD Cuspidor Mounted		4 p		\$ 144.00
	Dento surg 90 FFP unit		4 p		\$ 10,400.00
	Dexis Digital X-ray Sensors		4 p		\$ 36,000.00
	Digital X-ray license/software		4 p		\$ 39,200.00
	Panorex		4 p		\$ 28,300.00

New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment

	Hepa Filter, CrystalAir, Crymar	4 p	\$	984.00
	Root ZX Apex Locator, Morita	4 p	\$	3,364.00
	Central Vacuum System, STS-5, Airtec	1 p	\$	6,000.00
	Compressor, Twin, Airstar 50, Airtec	1 p	\$	6,100.00
	Lab Vibrator	4 p	\$	360.00
	Sullian Pro-Sonic	4 p	\$	4,000.00
	Red Wing	4 p	\$	800.00
	Micro Cab	4 p	\$	1,080.00
	Additional Dental Equipment Sub total	50	\$	140,044.00
	Standard Exam Room Equipment Sub total	67	\$	68,488.00
	Standard Dental Exam Room Equipment sub total	125	\$	26,350.00
	Additional Medical Equipment Sub total	272	\$	99,732.00
	Additional Dental Equipment Sub total	544	\$	140,044.00

	Total lease and purchase costs: Subproject 2			
	Total lease and purchase costs: Subproject 3			
	Total lease and purchase costs: Subproject 4			
	Total lease and purchase costs: Subproject 5			
	Total lease and purchase costs: Subproject 6			
	Total lease and purchase costs: Subproject 7			
	Total lease and purchase costs: Subproject 8			
	Total lease and purchase costs: Whole Project		\$	334,614.00

Schedule 13- CON Forms Applicable to all Article 28 Facilities

Contents:

- **Schedule 13 A - Assurances.**
- **Schedule 13 B - Staffing**
- **Schedule 13 C - Annual Operating Costs**
- **Schedule 13 D - Annual Operating Revenue**

Schedule 13 A. Assurances From Article 28 Applicants

Article 28 applicants seeking combined establishment and construction or construction approval only must complete this schedule.

The undersigned, as a duly authorized representative of the applicant, hereby gives the following assurances:

- a) The applicant has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure use and possession for the purpose of the construction and operation of the facility.
- b) The applicant will obtain the approval of the Commissioner of Health of all required submissions, which shall conform to the standards of construction and equipment in Subchapter C of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (Title 10).
- c) The applicant will submit to the Commissioner of Health final working drawings and specifications, which shall conform to the standards of construction and equipment of Subchapter C of Title 10, prior to contracting for construction, unless otherwise provided for in Title 10.
- d) The applicant will cause the project to be completed in accordance with the application and approved plans and specifications.
- e) The applicant will provide and maintain competent and adequate architectural and/or engineering inspection at the construction site to insure that the completed work conforms to the approved plans and specifications.
- f) If the project is an addition to a facility already in existence, upon completion of construction all patients shall be removed from areas of the facility that are not in compliance with pertinent provisions of Title 10, unless a waiver is granted by the Commissioner of Health, under Title 10.
- g) The facility will be operated and maintained in accordance with the standards prescribed by law.
- h) The applicant will comply with the provisions of the Public Health Law and the applicable provisions of Title 10 with respect to the operation of all established, existing medical facilities in which the applicant has a controlling interest.
- i) The applicant understands and recognizes that any approval of this application is not to be construed as an approval of, nor does it provide assurance of, reimbursement for any costs identified in the application. Reimbursement for all cost shall be in accordance with and subject to the provisions of Part 86 of Title 10.

Date

6/22/10



Signature:

Neil S. Calman, MD

Name (Please Type)

President & CEO

Title (Please type)

**New York State Department of Health
Certificate of Need Application**

Schedule 13B

Schedule 13 B. Staffing

Table 13B - 1: See "Schedules Required for Each Type of CON" to determine when this form is required. Use the "Other" categories for providers, such as dentists, that are not mentioned in the staff categories. If a project involves multiple sites please create a staffing table for each site.

Total Project Subproject number

A		B			C			D		
		Number of FTEs to the Nearest Tenth								
Staffing Categories		Current Year*	First Year of Implementation	Third Year of Implementation						
1.	Management & Supervision	81	7.1	7.1						
2.	Technician & Specialist	74	1.6	1.6						
3.	Registered Nurses	11	5.0	5.0						
4.	Licensed Practical Nurses	39	9.5	9.5						
5.	Aides, Orderlies & Attendants	58	17.4	17.4						
6.	Physicians	75	14.3	14.3						
7.	PGY Physicians	18	0	0						
8.	Physicians' Assistants	1	0	0						
9.	Nurse Practitioners	7	4.5	4.5						
10.	Nurse Midwife	2	0	0						
11.	Social Workers and Psychologist**	31	14.0	14.0						
12.	Physical Therapists and PT Assistants	0	0	0						
13.	Occupational Therapists and OT Assistants	0	0	0						
14.	Speech Therapists and Speech Assistants	0	0	0						
15.	Other Therapists and Assistants	0	0	0						
16.	Infection Control, Environment and Food Service	0	5.0	5.0						
17.	Clerical & Other Administrative	203	24.4	24.4						
18.	Other	5	0	0						
19.	Other	2	0	0						
20.	Other	0	0	0						
21.	Total Number of Employees	607	102.8	102.8						

*Last complete year prior to submitting application

**Use only for RHCf and D and T Center proposals

Describe how the number and mix of staff were determined:

Number and mix of staff were determined using formulas and experience derived from the operation of 15 extension clinics.

New York State Department of Health
 Certificate of Need Application

Schedule 13B

1.) All diagnostic and treatment centers should complete the following section:

Name of medical director:	Neil S. Calman, M.D.
License number of the Medical Director	127500

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of the medical director's curriculum vitae.	<input type="checkbox"/>	CALMAN CV_4.10	13B-1

Acute care facility with which an affiliation agreement is being negotiated:	St. Luke's Hospital Division of St. Luke's-Roosevelt Hospital Center
In the space below, indicate the status of those negotiations:	

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of a letter of intent or the affiliation agreement, if appropriate.	<input type="checkbox"/>	St. Luke's Hospital Back up Services Agreement	

Distance in miles from the proposed facility to the acute care affiliate.	1.7 miles
Distance in minutes of travel time from the proposed facility to the acute care affiliate.	6 minutes
Name of the acute care facility, nearest the proposed facility:	St. Luke's Hospital
Distance in miles from the proposed facility to the nearest acute care facility:	1.7 miles
Distance in minutes of travel time from the proposed facility to the nearest acute care facility.	6 minutes

NEIL STEPHEN CALMAN, MD

OFFICE:

President and CEO, Co-founder (1983-Present)
The Institute for Family Health, Inc.
(formerly the Institute for Urban Family Health, Inc.)
16 East 16th Street, New York, New York 10003
phone: (212) 633-0800, ext. 1255
fax: (212) 691-4610
cell: [REDACTED]
E-mail: NCalman@Institute2000.org
Website: www.Institute2000.org

EDUCATION:

Medical School

Rush University College of Medicine, Chicago, Illinois, M.D. 1975
College of Medicine and Dentistry of New Jersey, Rutgers Medical School
MMS 1973

College

University of Chicago, Chicago, Illinois (1967-71)
B.A. in Biology 1971, Special Honors

INTERNSHIP AND RESIDENCY:

Residency Program in Social Medicine, Family Practice
Montefiore Hospital and Medical Center
Bronx, New York (1975-78)

HONORS:

- 2008 Institute on Medicine as a Profession, Physician Advocacy Award
- 2008 New York Times Excellence in Non-profit Management Award –
Technology and Focus on Mission
- 2008 (2007, 2006, 2005, 2004, 2002, 2001, 2000) NY Magazine Best Doctors in New York
- 2007 Health Information Management Systems Society (HIMSS) Davies Public Health
Award
- 2006 HIMSS National Physician Information Technology Leadership Award
- 2004 New York Association of Community Health Workers – Community Service Award
- 2003: New York Association of Ambulatory Care – Annual Award for Significant C
Contributions to Primary Care
- 2002: Profiled in To Give Their Gifts: Health, Community and Democracy by
Richard A Couto, Vanderbilt University Press
- 2002: Profiled in Big Doctoring in America: Profiles in Primary Care by
Fitzhugh Mullan MD, University of California Press
- 1997: Profiled as one of nine family physicians in the US in Caring for
America: The Story of Family Practice. American Academy of Family
Physicians 50th Anniversary Book by John Stanard, Donning Company
Publishers
- 1996: Oregon Health Services University - Mack Lipkin Visiting Professorship

1994: American Academy of Family Physicians - Public Health Award
1994: Pew Charitable Trusts/ US Public Health Service Primary Care Achievement Award
1993: Robert Wood Johnson Foundation, Community Health Leadership Award
1991: Fellowship, New York Academy of Medicine
1980: Fellowship, American Academy of Family Physicians

CERTIFICATIONS:

Licensure New York State License M.D. #127500 July 1976
Boards Diplomat - National Board of Medical Examiners - July 1976
Diplomat - American Board of Family Practice December 1978
(Recertification 1984, 1991, 1997, 2003)
Certificate of Added Qualification - Geriatrics – 1989-1999)

ACADEMIC APPOINTMENTS:

Clinical Professor of Family and Social Medicine 1992 to present
Albert Einstein College of Medicine of Yeshiva University
Bronx, New York

Assistant Clinical Professor, Department of Epidemiology 1983 to present
and Population Health
Albert Einstein College of Medicine of Yeshiva University

HOSPITAL APPOINTMENTS:

Attending Physician 1993 to Present
Family Medicine
Beth Israel Medical Center
New York, New York

Attending Physician 1998 to Present
Family Medicine
Montefiore Medical Center
Bronx, New York

Attending Physician 1983 to Present
Department of Family Medicine
Bronx-Lebanon Hospital Center
Bronx, New York

POLICY APPOINTMENTS

Health IT Policy Committee, Office of the National Coordinator for Health Information Technology Member	2009-Present
New York State Diabetes Campaign - New York State Health Foundation Director	2008-Present
New York eHealth Collaborative Board of Directors	2007 to Present
Aspen Institute. Health, Biomedical Science and Society Initiative Health Policy Roundtable	2005 - Present
Harvard/MIT Health Policy Working Group	2005 - 2006

CURRENT RESEARCH ACTIVITIES

Principal Investigator Bronx Faith-based Initiative for Health Equality National Institutes of Health (NIH)	2005- Present
Principal Investigator National Center of Excellence for the Elimination of Health Disparities Bronx Health REACH – REACH 2010 Centers for Disease Control (CDC)	2000- Present
Co-Principal Investigator The Use of Health Information Technology to Improve Care for the Medically Underserved – Linking Primary Care and Public Health (with NYC Dept of Health) Centers for Disease Control	2007-Present
Principal Investigator MyChart-MyHealth -Meeting the Need of Community Health Center Patients: Personal Health Records for Diverse Populations,	2007-Present
Director New York State Diabetes Campaign New York State Health Foundation	2008- Present

Principal Investigator
Eliminating Disparities in Health Care Outcomes
in Diabetes in Primary Care Practice 2008- Present

Principal Investigator 2009- Present
Using Electronic Health Records to Transform
Quality Reporting into Quality Improvement

PROFESSIONAL ACTIVITIES

American Academy of Family Physicians
Future of Family Medicine Task Force 2002-2004

New York State Area Health Education Centers Program (AHEC)
Executive Council 2001- Present
Medical Director, NYC Metropolitan Region 2001- Present
Chair, Finance Committee 2003 -Present
Board of Directors, Bronx-Westchester AHEC 2001 - 2004

Community Health Care Association of New York State
Board of Directors 1998- Present
Chair, Clinical Committee 2002- 2008
Chair, Conference Committee 2000- 2002
Chair, Health Policy Committee 1998- 2000

New York State Academy of Family Physicians
President 1997
Vice-President 1995
Secretary 1993, 1994
Chairman of the Board 1992-93
President, Society of NY Residency Directors &
Departmental Chairpersons 1990-92
NY State Board of Directors 1990-93
Chair, Ad Hoc Committee on Family Practice Legislation 1991- present
NY State Legislative Affairs Committee 1983-1993
NY State Committee on Hospital Privileges 1985-1993
NY County Secretary 1981

Family Practice News
Editorial Board 1999 – Present

National Quality Forum
Health Disparities Subcommittee of the
Ambulatory Care Standards Committee 2006-2008

Medical Society of the State of New York	
Bronx County Medical Society	
Committee on Legislative Affairs	1991-1996
Chairman, Committee on Public Health	1991-1996
Malpractice Mediation Panel	1979-1985

Society of Teachers of Family Medicine

American Public Health Association

National Association of Community Health Centers
Health Policy and Research Committee

GOVERNMENT APPOINTMENTS

Health IT Policy Committee, Office of the National Coordinator for Health Information Technology	2009-Present
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New York State Council on Graduate Medical Education	1993 to Present
Chair, Task Force on Finance and Health Reform	1995 to Present

New York State Department of Health Pediatric Advisory Committee	1997 to 2007
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Health Care Financing Commission Region II Medical Access Committee	1997 to 2000
--	--------------

New York State Department of Social Services Medical Advisory Committee (MAC)	1994 to 1997
--	--------------

Governor's Health Care Advisory Board, Member	1991 to 1995
Task Force on the President's Health Plan	
Committee on Quality and Regulation	
Committee on Community Health Systems	

NYS Department of Health	1993 to 1995
Advisory Council for the Robert Wood Johnson "Practice Sights"	
Chair, Committee on Technical Assistance and Committee on Needs Assessment	

New York State Department of Health, Health Research Council	1990 -1991
Advisory Panel on Primary Care Physicians	

PAST PROFESSIONAL ACTIVITIES:

Chair	1983-1998
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Department of Family Medicine
Bronx-Lebanon Hospital Center
1276 Fulton Avenue, Bronx, NY 10456

President 1996-1997
New York State Academy of Family Physicians
16 The Sage Estate, Albany, NY 12204

Medical Director 1981 - 1984
Soundview Health Center
Comprehensive Community Development Corporation
731 White Plains Road, Bronx, New York 10473

Director 1978 to 1981
The Comprehensive Health Care Program
New York Medical College
Center for Comprehensive Health Practice
New York, New York 10023

PUBLICATIONS (Selected):

Kaplan S, Ruddock C, Golub M, Davis J, Foley Sr. R, Devia C, Rosen R, Berry C, Barretto C, Carter T, Irish-Spencer E, Marchena M, Purcaro E, **Calman N**. Stirring up the Mud: Using a Community-Based Participatory Approach to Address Health Disparities through a Faith-Based Initiative. J Health Care Poor Underserved. 2009 November, PMID: PMC Journal 20.4(2009)1111-1123

Sengupta S, **Calman NS**, Hripesak G. A Model for Expanded Public Health Reporting in the Context of HIPAA. *J. Am. Med. Inform. Assoc.* 25 June 2008

Calman NS, Kitson K, Hauser D. Using Health Information Technology to Improve Health Quality and Safety in Community Health Centers. *Journal of Progress in Community Health Partnerships: Research Education and Action*. Spring 2007 1(1):83-88.

Calman, NS, Golub M, Kitson K, Ruddock C. Electronic Health Records: The Use of Technology to Eliminate Racial Disparities in Health Outcomes. In: *Medical Informatics: An Executive Primer*. Health Information and Management Systems Society, Chicago, IL. Kenneth Ong, MD, Editor. January 2007.

Calman, NS, Golub M, Ruddock C, Le L, Hauser D, The Action Committee of the Bronx Health REACH Coalition. Separate and Unequal Care in New York City. *Journal of Health Care Law & Policy*. 2006. 9(1):105-120.

Calman NS, Hauser D, Forte G, Continelli T. New York State Physicians: Characteristics and Distribution in Health Professional Shortage Areas. *Journal of Urban Health*. 2006 Nov 29

Kaplan SA, **Calman NS**, Golub M, Ruddock C, Billings J. The role of faith-based institutions in addressing health disparities: a case study of an initiative in the southwest Bronx. *J Health Care Poor Underserved*. 2006 May;17(2 Suppl):9-19.

Kaplan SA, **Calman NS**, Golub M, Ruddock C, Billings J. Fostering Organizational Change Through a Community-Based Initiative. *Health Promotion Practice*. 2006 June 7

Calman, N. Preparing the Mind and Body for the Decades Ahead . In: *Sixty Things to Do When You Turn Sixty*. Ronnie Sellers Productions, Portland ME. Ronnie Sellers, Editor. 2006.

Kaplan SA, **Calman NS**, Golub M, Davis JH, Ruddock C, Billings J. Racial and ethnic disparities in health: a view from the South Bronx. *Journal of Health Care for the Poor and Underserved*. 2006 Feb;17(1):116-27.

Calman NS. Making Health Equality a Reality: The Bronx Takes Action. *Health Affairs*. March/April 2005; 24(2):491-498.

Calman NS. "So Tired of Life." Narrative Matters, Health Affairs 23:228-232, May/June 2004

Calman NS, "No One Needs to Know," Narrative Matters, Health Affairs, Vol. 20, No. 2, page 243. Mar/Apr 2001.

Calman NS, "Out of The Shadow," Narrative Matters, Health Affairs, Vol. 19, No. 1, page 170. Jan/Feb 2000.

Bhushan A, Kupperman JL, Stone JE, Kimberly PJ, **Calman NS**, Hacker MP, Birge RB, Tritton TR, Newell MK. Drug resistance results in alterations in expression of immune recognition molecules and failure to express Fas (CD95). Immunol Cell Biol. 1998 Aug;76(4):350-6.

Calman N, Urban Renewal. Hospital Health Networks Vol. 68, No. 10, page 12. May 20, 1994.

Calman NS. "No Shattered Vision," A Peace of My Mind. JAMA, Vol. 269, No. 5, page 638. Feb 3, 1993.

Calman NS, Hyman RB, Licht W. "Variability in consultation rates and practitioner level of diagnostic certainty." Journal of Family Practice, 35:31-38, July 1992.

Calman NS, Harvey M, Shah R. "The Computerized Family Problem Profile", Family Practice Research Journal, 2:3, Fall 1982.

Calman NS, Lippman C. "The Parent and Child Treatment Program: A Comprehensive Approach to Child Maltreatment" Proceedings of the Fourth National Conference on Child Abuse and Neglect ,Los Angeles, California 1980.

Calman NS. "The Politics of Holistic Medicine", *Germinal Ideas* 7:9, July 1979.

Calman NS. "Issues in Social Medicine: Screening - Why and When", *The New Physician* 26:52, September 1977.

Calman NS, Eng B, Slater LM, Wallerstein H. "Antigenic Changes Associated with Resistance to Methotrexate and 6-Mercaptopurine in L1210 Ascites Lymphoma", *Journal of the National Cancer Institute* 52:997, March 1974.

Wallerstein H, Slater LM, Eng B, **Calman NS.** "Return of Antimetabolite Sensitivity in Methotrexate and 6-Mercaptopurine Resistant L1210 Ascites Leukemia by the Process of Adaptive Selection", *Cancer Research* 32:2235, October 1972.

Wallerstein H, Slater LM, Eng B, **Calman NS.** "Reversal of Resistance in L1210 Murine Leukemia by Uracil", *Blood* 38:648, November 1971.

LETTERS

Calman N, Hauser D, Salsberg E, Forte G. Physician Shortages. (letter) *Health Affairs* Vol. 22 No 4. pages 260-1, July/August 2003.

Soloway, B., **Calman, N.**, Miller, E., Swartz, J., Weiser, J., Sacco, J., Roethel, L. (letter) *Journal of Nurse-Midwifery* Vol. 40, #3 May/June 1995 pg. 305.

RESEARCH PRESENTATIONS (Refereed)

Calman, NS "Community and Faith-based Organizations Research Discrimination in the Health Care System" NIH Summit: The Science of Eliminating Health Disparities, Washington, DC, December 2008.

Calman, NS The Development of a WONCA Urban Health Working Group : The World Organization of National Colleges, Academies and Academic Associations of General Practitioners/Family Physicians, Twelfth Congress, Palmas de Mallorca, Spain, June 2000.

Clark-Coller, T, Lutz, M, **Calman, NS**, Soloway, B, Gardner, D, Balakrishna, V, Gallagher, J, Verdick, A, "Type of Prenatal Care and Perinatal Outcomes in a High Risk Inner-City Community: Family Practice/Midwifery/OBs Team Outcomes are Comparable to Obstetrician Care Only." 50th Scientific Assembly of the American Academy of Family Physicians, Chicago 1997.

Calman, NS, Deary, J, "Organizational Development and Family Practice Residency Training". Northeast Regional Conference of the Society of Teachers of Family Medicine, White Plains, NY, November 1995.

Calman, NS, Golub M. "Primary Care for the Needy in the United States: The World Organization of National Colleges, Academies and Academic Associations of General Practitioners/Family Physicians, Twelfth Congress, The Haag, Netherlands, June 1993.

Calman NS, Golub M. "The Production of Primary Care Physicians for Areas of Need: A

Quantitative Analysis" The Twenty-fifth Anniversary Conference of the National Health Service Corps, Arlington, Virginia, June 1992

Calman NS, Bautista M. "The Impact of HIV-AIDS on the Education of Family Practice Residents in the Bronx" Third Annual Research Forum - Research and Education Foundation of the New York State Academy of Family Physicians, Buffalo, New York May 1991.

Calman NS, Walsh E, Eisner Y. "Variations in Consultation Rates in an Urban Family Practice" STFM Northeast Regional Conference, Hershey, PA. October 1989.

Calman NS, Lippman C. "Child Abuse and Neglect: Treatment in a Comprehensive Family Health Care Setting" The World Organization of National Colleges, Academies and Academic Associations of General Practitioners/Family Physicians, Ninth World Congress, LA., 1980.

Calman NS. "Toward a Definition of Urban Family Practice" The World Organization of National Colleges, Academies and Academic Associations of General Practitioners/Family Physicians, Ninth World Congress, New Orleans, LA., 1980.

SELECTED MEDIA PRESENTATIONS

"Racial and Ethnic Disparities in Health Care in New York City" NBC-TV, Channel 1, News 12 New York., WBAI Radio	November 2005
"Drug Safety and the FDA - The Physician's Perspective" ABC-TV	October 2004
"Racial and Ethnic Disparities in Health Care" WBAI Radio	December 2003
"The Current State of Health Care Financing and its Impact on Primary Care" WCBS Radio, New York.	September 1997
"Health Care - Is the Government Taking Over?" CNN -Business Today	December 1994
"Managed Care" Jay Diamond Show, WABC Radio, New York	February 1994
"Health Reform and the Urban Poor" MacNeil/Lehrer News Hour, PBS Channel 13, New York	November 1993
"Health Care Reform" WCBS News Radio Special, New York	May 1993

BACK-UP SERVICES AGREEMENT

AGREEMENT, made and entered into as of the date of its completed execution, by and between ST. LUKE'S-ROOSEVELT HOSPITAL CENTER, with a facility at 1111 Amsterdam Avenue, New York, NY, 10025 ("SLRHC," "Receiving Facility") and THE INSTITUTE FOR FAMILY HEALTH (the "Institute," "Referring Organization"), with administrative offices at 16 East 16th Street, New York, NY, 10003 .

WHEREAS, SLRHC and the Institute desire, in the interests of quality care, access to treatment, efficiency and economy, to coordinate and cooperate in the use of certain resources; and

WHEREAS, Institute operates the North General Family Health Center at 1879 Madison Avenue, New York, NY;

WHEREAS, SLRHC is willing to accept at its St. Luke's division referrals of patients from North General Family Health Center ("referred patients") for emergency room services, specialty services, and inpatient hospital services;

NOW, THEREFORE, in consideration of the mutual advantages accruing to the parties, it is agreed as follows:

1. Inpatient and Other Hospital Services Where inpatient or other hospital services are determined to be medically appropriate by the treating physician at the Referring Organization and by the responsible accepting physician at the Receiving Facility, the referred patient may be accepted by Receiving Facility for transfer to the Receiving Facility; provided, however, that no patient will be accepted for transfer for such services unless there is inpatient or Emergency Department capacity and the required services are available.
2. Patient Consent: Transfers The Referring Organization shall be solely responsible for obtaining and shall obtain all legally effective consents or authorizations to permit transfer to the Receiving Facility. The Referring Organization shall, in addition, comply with all applicable state and federal law regarding transfer of patients presenting to the Referring Organization's emergency room or in need of emergency care. The Receiving Facility shall be responsible to obtain informed consent for further treatment as necessary under applicable law.
3. Licensure; Accreditation SLRHC has all certifications necessary to provide inpatient hospital services and maintains on a 24 hour basis all services, including, but not limited to, emergency, medical, surgical, dental, x-ray, laboratory, and pharmaceutical, necessary and appropriate for the delivery of such services. SLRHC will promptly notify Institute if it loses such certification or if it is the subject of any adverse action, or contemplated adverse action regarding that designation, and will promptly notify the Referring Organization of any adverse action or contemplated adverse action regarding its JCAHO accreditation.

The Institute has all licenses and certifications necessary to provide medical assessment services to public assistance recipients with complex barriers to employment, including medical, mental health, and substance abuse conditions, to transition from welfare to work. The Institute will promptly notify SLRHC if it loses a license or certification or if it is the subject of any adverse action, or contemplated adverse action regarding such licensure or certification and will promptly notify SLRHC of any adverse action or contemplated adverse action regarding its licensure or certification.

4. Patient Care Information The Referring Organization shall be solely responsible for the prompt transfer of patient care information and other documentation as is relevant to the proper care of the referred patient, including but not limited to medical, social, nursing and other care plans, and such additional patient care information and documentation as is requested by the Receiving Facility physician who will become responsible for the medical care of the referred patient.

5. Confidentiality The Referring Organization and the Receiving Facility both agree to comply with all applicable federal, state and local laws and regulations, as they may be amended from time to time, governing the confidentiality of medical records. The Referring Organization and the Receiving Facility further represent and warrant that their employees, medical staff, and or contractors have been trained in the confidentiality and disclosure requirements of New York State statutes and regulations concerning HIV-related information and agreed to comply with such requirements.

6. Patient Transfer With respect to referrals for inpatient care, the Referring Organization and the referring physician shall be solely responsible for physically transporting the referred patient to the Receiving Facility in a manner that is safe and medically appropriate, as determined by the attending physician at the Referring Organization. The Referring Organization shall select the form of transport and shall assure that such transfer complies with all applicable state and federal law regarding transfer of patients.

7. Patient Discharge Nothing contained herein shall prevent or in any way prohibit the Receiving Facility from discharging a referred patient who has been admitted to the Receiving Facility if the responsible Receiving Facility physician considers it medically appropriate or if the referred patient signs out or is signed out against medical advice by the person or agency legally authorized to act on such referred patient's behalf.

8. Personal Valuables With respect to referral for inpatient care, the Referring Organization shall be responsible for the storage and safe transport of the referred patient's personal property, especially his/her monies and valuables, until the referred patient is accepted for admission by the Receiving Facility for inpatient services and the Receiving Facility obtains control over such personal property and signs a receipt which shall list each item of personal property being forwarded to the Receiving Facility. Once under the control of the Receiving Facility, such referred patient's personal property shall be stored safely in a place known and reasonably accessible to the referred patient or to a person or agency legally authorized to act on his/her behalf.

9. Billing Each party shall bill directly the appropriate payor for medical care services rendered such party. Neither party shall be held financially responsible for the services rendered to a patient by the other party.

10. Insurance: SLRHC

(a) SLRHC shall maintain, pay for, and keep in force as required by the law statutory workers compensation insurance for its employees, and statutory disability benefits covering all persons employed by the Referring Organization in connection with this Agreement.

SLRHC shall maintain, pay for, and keep in force the following insurance: Professional liability, comprehensive general liability, including personal injury and broad form property damage liability in amounts, for each, of not less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate. Certificates of Insurance from SLRHC evidencing such coverage shall be provided to the Receiving Facility upon its request. Coverage afforded under these policies will not be cancelled or materially diminished until at least thirty days' prior written notice has been given to the Institute.

11. Insurance and Indemnity: The Institute

(a) The Institute shall maintain, pay for, and keep in force as required by the law statutory workers compensation insurance for its employees, and statutory disability benefits covering all persons employed by the Institute in connection with this Agreement.

(b) The Institute shall maintain, pay for, and keep in force the following insurance: Professional liability, comprehensive General liability, including personal injury and broad form property damage liability in amounts, for each, of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Certificates of Insurance from the Institute evidencing such coverage shall be filed be provided if requested by SLRHC. Coverage afforded under these policies will not be cancelled or materially diminished until at least thirty days' prior written notice has been given to SLRHC. The Institute represents that it is a Federally Qualified Health Center; accordingly, as an alternative to a professional liability policy, the Institute may demonstrate deeming and coverage under the Federal Tort Claims Act.

(c) The Institute will defend, indemnify, and hold harmless SLRHC, its directors, physicians, employee and agents from any and all suits, damages, claims, costs and expenses (including reasonable attorney fees) arising from its actions.

12. Term of Agreement This Agreement shall become effective beginning on the date of its completed execution. The initial term of this Agreement shall be one year. It shall renew automatically from year to year for additional one year terms, unless terminated as provided herein.

13. Termination Either party may terminate this Agreement upon thirty (30) days written notice to the other party for any reason whatsoever or for no reason at all. Neither party shall incur any liability on account of such termination. This Agreement shall terminate immediately

if either party fails to maintain in good standing its licensure, certification, and accreditation. Such party shall immediately inform the other party in writing of such failure to maintain in good standing its licensure, certification and accreditation.

14. Transfer Pending Termination In the event this Agreement is terminated pursuant to Paragraph 12 hereof, the Referring Organization may transfer a referred patient to the Receiving Facility in accordance with the provisions of this Agreement during the thirty (30) day period prior to the termination date of this Agreement.

15. Compliance with Law. Throughout the term of this Agreement, Referring Organization and Receiving Facility shall comply with the requirements of the New York State Public Health Law. In addition, New York State Health Code Regulations require the following statement in this Agreement:

"Notwithstanding any other provision in this contract, each facility remains responsible for ensuring that any service provided pursuant to this agreement complies with all pertinent provisions of Federal, State and local statutes, rules and regulations."

16. Non-Discrimination The Referring Organization and the Receiving Facility are and shall remain during the term of this Agreement in compliance with the Federal Civil Rights Law and applicable state and local statutes and regulations in that they admit and treat all patients without regard to race, creed, sex, color, source of payment, national origin, age and handicap. The same non-discrimination policy applies to the employment and promotion of personnel.

17. Amendments This Agreement shall not be modified or amended except upon the written agreement executed by the Receiving Facility and the Referring Organization.

18. Advertising Neither party shall use the name of the other party in any promotional or advertising material, or in any way advertise or promote the affiliation between the parties as set forth in this Agreement without receiving the prior written approval of such other party.

19. Independent Relationship This Agreement in no way establishes an agency relationship between the Receiving Facility and the Referring Organization. Each party shall maintain its independence and its separate identity. Each party shall have exclusive control of its management, employees, staff, policies and assets. Neither party assumes any liability for the acts of the other party.

20. Notices All notices, requests and correspondence shall be in writing and shall be addressed to the parties as indicated on the first page of this Agreement, unless such address shall have been changed by written notice to the other party, in which case notices shall be addressed to the changed address. Notices shall be deemed to have been received either when personally delivered or if sent by mail (in which event it shall be sent postage prepaid by registered or certified mail) three days after the postmark date.

21. Assignment Neither party shall assign or transfer any duties or obligations imposed upon it by this Agreement without the prior written consent of the other party.

22. Entire Agreement This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all other agreements and understandings whatsoever between the parties, whether oral, written or otherwise.

23. Governing Law This Agreement shall be deemed to be a contract made under the laws of the State of New York and shall be construed in accordance with and shall be governed by the laws of the State of New York.

Accepted and Agreed:

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER

By: 

Name: FRANK J. CRACOLICI

Title: PRESIDENT

Date: 4/21/10

THE INSTITUTE FOR FAMILY HEALTH

By: 

Name: EDWARD M. FRIED

Title: SR Vice President for Administration

Date: 5-18-2010

Table 13B - 2. Ambulatory surgery centers should complete the following Table:

List all practitioners -- including surgeons, Dentists and Podiatrists, who have expressed an interest in practicing at the Center.
 NOTE: Attach copies of letters from each giving the number and type of procedures he or she expects to perform per year.

Practitioner's Name	License No.	Specialty (s)	Board Certified or Eligible	Expected Number of Procedures	List hospitals where Physician has Admitting Privileges:	Title and File Name of Attachment
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			

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Schedule 13D

Schedule 13 C. Annual Operating Costs

See "Schedules Required for Each Type of CON" to determine when this form is required.

Use this schedule to summarize the first full year's incremental cost for the categories, which are affected by this project. The first full year is defined as the first 12 months of full operation after project completion. Project the first and third full year's direct incremental costs in current year dollars. (Show only additional operating costs to be incurred during the first full year after project completion). Enter in the column heading the year and month when this period begins and ends."

- Total Project
- Subproject Number

Table 13C - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Cost Impact	Year 3 Incremental Cost Impact
Start date of year in question:(m/d/yyyy)	1/1/2010	6/1/2010	6/1/2012
1. Salaries and Wages	34,784,444	6,960,000	7,041,000
1a. FTEs	607	102.8	102.8
2. Employee Benefits	6,818,968	2,303,000	2,331,000
3. Professional Fees	307,000	987,000	1,047,000
4. Medical & Surgical Supplies	2,404,891	681,000	722,000
5. Non-med., non-surg. Supplies	889,481	170,000	181,000
6. Utilities	1,009,015	115,000	122,000
7. Purchased Services	3,788,797	0	0
8. Other Direct Expenses	2,174,595	2,800,000	3,195,000
9. Subtotal (total 1-8)	52,177,191	14,016,000	14,639,000
10. Interest	529,009	0	0
11. Depreciation and Rent	3,390,890	989,000	1,038,000
12. Total Incremental Operating Costs	56,097,090	15,005,000	15,677,000

	Title of Attachment	Filename of attachment
1. In an attachment, provide the basis and supporting calculations for depreciation and rent expense	Rent and Depreciation Calculation	13-D-1
2. In an attachment, provide the basis for interest cost. Separately identify, with supporting calculations, interest attributed to mortgages and working capital	N/A	N/A

Any approval of this application is not to be construed as an approval of any of the above indicated current or projected operating costs. Reimbursement of any such costs shall be in accordance with and subject to the provisions of Part 86 of 10 NYCRR. Approval of this application does not assure reimbursement of any of the costs indicated therein by payers under Title XIX of the Federal Social Security Act (Medicaid) or Article 43 of The State Insurance Law or by any other payers.

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Schedule 13D

Schedule 13 D: Annual Operating Revenues

See "Schedules Required for Each Type of CON" to determine when this form is required.

This schedule is to be used for all proposals except (a) establishment applications for RHCs and D&TCs, and (b) RCHF and D&TC applications which will increase total year current costs by more than 10%.

One schedule must be completed for the total project and one for each of the subprojects. Indicate which one is being reported by checking the appropriate box at the top of the schedule.

Use this schedule to summarize the current year's operating revenue, and the first and third year's incremental operating revenue for the categories that are affected by this project.

Table 1. Enter the current year data in column 1. This should represent the total revenue for the last complete year before submitting the application, using audited data.

Indicate in column 2 and column 3 respectively a projection of the first and third year incremental revenues (i.e., additional operating revenues (i.e., additional operating revenues to be received during the first and third years of operation after project completion). Use current year dollars. Show revenue reductions in parentheses.

Tables 2a and 2b. Enter current year data in the appropriate block. This should represent revenue by payer for the last complete year before submitting the application, using audited data.

Indicate in the appropriate blocks incremental revenues (i.e., additional operating revenues by payer to be received during the first and third years of operation after project completion). As an attachment, provide documentation for the rates assumed for each payer. Where the project will result in a rate change, provide supporting calculations. For managed care, include rates and information from which the rates are derived, including payer, enrollees, and utilization assumptions.

The total of Inpatient and Outpatient Services at the bottom of tables' 2a and b should equal the totals given on line 10 of table 1.

Provide as an attachment to this schedule a cash flow analysis for the first year of operations after the changes proposed by the application, which identifies the amount of working capital, if any, needed to implement the project. Please complete Schedule 5, Working Capital Schedule, in conjunction with the cash flow analysis.

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Schedule 13D

Table 13D - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Revenue Impact	Year 3 Incremental Revenue Impact
Start date of year in question:(m/d/yyyy)			
1. Daily Hospital Services			
2. Ambulatory Services			
3. Ancillary Services			
4. Total Gross Patient Care Services Rendered			
5. Deductions from Revenue			
6. Net Patient Care Services Revenue			
7. Other Operating Revenue (Identify sources)			
8. Total Operating Revenue (Total 1-7)			
9. Non-Operating Revenue			
10. Total Project Revenue			

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Schedule 13D

Table 13D – 3

* Various inpatient services may be reimbursed as discharges or days. Applicant should indicate which method applies to this table by choosing the appropriate checkbox.

Patient Days Patient discharges

Inpatient Services Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Patient Days or dis- charges *	Net Revenue*		Patient Days or dis- charges*	Net Revenue*		Patient Days or dis- charges*	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service									
	Managed Care									
Medicare	Fee for Service									
	Managed Care									
Medicaid	Fee for Service									
	Managed Care									
Private Pay										
ASAS										
CMH										
Charity Care										
Bad Debt										
All Other										
Total			100%			100%			100%	

New York State Department of Health
Certificate of Need Application

Schedule 13D

Table 13D - 4

Outpatient Services** Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Visits	Net Revenue*		Visits	Net Revenue*		Visits	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service	82,072	13.06	7,331,938	5,203	3.80	405,230	5,203	3.80	471,114
	Managed Care									
Medicare	Fee for Service	25,491	4.10	2,299,185	12,415	8.14	861,526	12,415	8.14	1,001,598
	Managed Care	14,339	2.12	1,184,428	7,159	4.35	460,319	7,159	4.35	535,161
Medicaid	Fee for Service	48,121	12.91	7,238,011	25,955	40.27	4,263,972	25,955	40.27	4,957,233
	Managed Care	92,235	26.45	14,834,090	29,237	39.74	4,207,849	29,237	39.74	4,891,986
Private Pay		37,319	1.81	1,014,904	2,256	3.10	327,838	2,256	3.10	381,140
OASAS										
OMH										
Charity Care			1.33	750,000		.60	63,000		.60	74,000
Bad Debt										
All Other			38.22	21,444,534						
Total		299,577	100%	56,097,090	82,225	100%	10,589,734	82,225	100%	12,312,232

Total of Inpatient and Outpatient Services										
--	--	--	--	--	--	--	--	--	--	--

Attachment #1

13-D-1

Rent and Depreciation Calculation

The Institute for Family Health is going to lease approximately 27, 000 square feet from North General Hospital. The rent payment (which includes additional rent for utilities) is estimated to be approximately \$814, 000. Depreciation for equipment was calculated using (36 month) straight line depreciation for new equipment purchased that had a total cost of \$525, 000. This results in a depreciation expense of \$175, 000 per year. The total rent and depreciation expense for 2009 is estimated \$989, 000.

The rent and depreciation were projected to have annual increases of which results in a rent and depreciation expense of \$1.038 million in Year 3 of the project.

Schedule 17 CON Forms Specific to Diagnostic and Treatment Centers Article 28

Contents:

- o **Schedule 17 A - D&TC Program Information.**
- o **Schedule 17 B - D&TC Community Need.**
- o **Schedule 17 C - Impact of CON Application on D&TC
Operating Certificate**
- o **Schedule 17 D - D&TC Allocation of Operating Costs**
- o **Schedule 17 E - D&TC Statement of Revenue**

Schedule 17 A - Diagnostic and Treatment Center Program Information.

See "Schedules Required for Each Type of CON" to determine when this form is required.

Instructions: In the space below, briefly indicate how the facility intends to comply with state and federal regulations. If the application involves conversion of an existing practice, state who owns the practice and how the conversion will be done. If there are other entities utilizing the same space or resources, please state exactly how the space and resources will be allocated. Also, provide a description of the other entities.

The Institute for Family Health is a federally qualified community health center network, founded in 1983, dedicated to developing innovative ways to provide primary health services to medically underserved populations based on the family practice model of care. The Institute holds a NYS Article 28 Diagnostic and Treatment Center license and currently operates 15 full-time health centers and nine part-time centers through its federal Section 330 community health center grant program. Since 2005, the Institute has been fully accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO). In August 2009, the Institute achieved Level 3 certification as a Patient Centered Medical Home from the National Committee for Quality Assurance, the first health center network in New York State to achieve this distinction.

North General Hospital is a not-for-profit corporation located at 1889 Madison Avenue in Harlem, New York. The hospital's service area includes the communities of Central and East Harlem, which have a combined population of 259,205 and include a significant number of individuals and families living at or below the Federal Poverty Level. The Hospital's Diagnostic and Treatment Center, in operation since 2004, offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties.

Over the past year, North General's leadership has recognized the need to change its organizational structure to address ongoing financial difficulties. In late 2009, North General approached the Institute for assistance in operating its Diagnostic and Treatment Center and specialty care services. Since that time, clinical and administrative leaders from the Institute and North General have met to review and coordinate all issues related to the transfer of this site in order to ensure a smooth transition. Both parties have agreed that the Institute will assume responsibility for primary medical care, mental health, dental, 12 hour/7 days a week walk-in-services, school-based health services, and a number of specialty services. In addition, the Institute will implement an electronic health record (EHR) system. A transition date has been set for July 6, 2010. In addition to this Certificate of Need Application, the Institute is also applying to the Bureau of Primary Health Care to add this site into its federal scope of service.

Schedule 17 B - Community Need

See "Schedules Required for Each Type of CON" to determine when this form is required.

Public Need Summary:

Briefly summarize on this schedule, why the project is needed. Use additional paper, as necessary. If the following items have been addressed in the project narrative, please cite the relevant section and pages.

1. Identify the relevant service area (e.g., Minor Civil Division(s), Census Tract(s), street boundaries, Zip Code(s), Health Professional Shortage Area (HPSA) etc.)

North General Hospital is located at 1889 Madison Avenue in Harlem in New York County. According to 2000 US Census Bureau data, New York County is the most densely populated county in the United States. The Harlem community stretches from the East River west to the Hudson River as far north as 155th Street where it meets with Washington Heights. The southern border is irregular and stretches as far south as 96th street in the east, then follows the perimeter of Central and Morningside Parks and the Upper West Side moving west. The vast majority of North General Hospital patients reside in Central Harlem and East Harlem, which are divided by 5th Avenue and cover a combined area of approximately 3.62 square miles. Central Harlem, which comprises Manhattan Community District 10, consists of zip code areas 10026, 10027, 10030, 10037, and 10039. It comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, which comprises Community District 11, consists of zip code areas 10029 and 10035. It comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and all of which are Health Professional Shortage Areas.

2. Provide a quantitative and qualitative description of the population to be served. (Qualitative data may include median income, ethnicity, payor mix, etc.)

According to the 2000 US Census, the population of the communities of Central Harlem (151,113) and East Harlem (108,092) totals roughly 259,205, rendering a population density of 71,604 per square mile. The service area's population is made up primarily of African American and Hispanic residents. Approximately 67% of the population of Central Harlem and 39% of East Harlem are African American; 20% of Central Harlem and 55% of East Harlem are Hispanic; and 8% of Central Harlem and 26% of East Harlem are White. An estimated 19% of Central Harlem residents and 21% of East Harlem residents were born outside of the US, compared to 11% of the overall US population.

Harlem is ranked as one of the poorest neighborhoods in all of New York City. The median household incomes of Central Harlem (\$21,508) and East Harlem (\$18,564) are significantly lower compared to both New York City (\$38,293) and the US (\$41,994). In addition, the percentage of persons living in poverty in Central Harlem (36%) and East Harlem (21%) is significantly higher than in the rest of New York City (21%) and the US (12%). One third of the population live at or below 100 percent of the federal poverty level (FPL) and roughly two thirds are below 200 percent, or approximately 170,000 individuals.

The percentage of Harlem residents without health insurance compares negatively to both New York City and the US: 24.8% for Central Harlem and 19.5% for East Harlem compared to 17.4% for New York City and 15% for US residents. In addition to these low rates of coverage, more than one quarter of residents in the community report not having a doctor and roughly 13% reported being in need of care but not receiving it. As of December 2008, approximately 24% of Central Harlem residents and 44% of East Harlem residents received Medicaid.

3. Document the current and projected demand for the proposed services. If the proposed services are covered by a DOH need methodology, demonstrate how the proposed service is consistent with it.

North General Hospital is the only private hospital located in Harlem. The Hospital's Diagnostic and Treatment Center, which the Institute is seeking to acquire, offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties. Center staff also provide primary care services to children at a school-based program located at PS 57 in East Harlem. The Center and its programs are a vital component of Harlem's safety net provider system. In 2009, Center staff provided approximately 95,000 visits in total including primary care, dental, mental health, and specialty services. Center records indicate that the vast majority (72.2%) of patients served by the organization come from the Central and East Harlem communities, which have, as indicated above, a significant number of individuals

and families living at or below the Federal Poverty Level. During 2009, 32% of primary care visits (including the school-based visits) were covered by Medicaid, 37% by Medicaid HMO, 12% by Medicare, 7% by Medicare HMO, 9% commercial insurance, 2% self-pay.

In the first year, it is projected that these trends will continue and that the Center will care for 19,718 patients who will make an estimated 82,225 visits. The health center will have a sliding fee scale for all uninsured patients, and services will be provided regardless of patients' ability to pay.

4. (a) Describe how this project responds to and reflects the needs of the residents in the community you propose to serve.

Low-income and minority residents in Harlem have a critical need for a medical home. Residents in the service area generally self-report poorer health status and more frequent mental distress when compared to NYC as a whole. Residents are also more likely to go without needed care and/or prescription medicines. According to Community Health Profiles published by the New York City Department of Health and Mental Hygiene, 24% of Central Harlem residents and 29% of East Harlem residents do not have a regular doctor or other health care provider. Among 42 NYC neighborhoods in 2004, Central Harlem ranked 35th and East Harlem 42nd in terms of the avoidable hospitalization rate. In addition, according to the United States Department of Health and Human Services Office of Minority Health, African American men are 1.3 times as likely to have new cases of lung and prostate cancer compared to non-Hispanic white men and African American women are 10% less likely to have been diagnosed with breast cancer but 34% more likely to die from breast cancer.

This project, like all of the Institute's family practice centers, will offer comprehensive primary care on-site, including family planning, gynecological care, HIV testing and treatment, immunizations, TB therapy, hearing and vision screening, urgent care, social services, and nutrition services. Dental care, mental health services, obstetrical care, specialized care for patients affected by HIV, and an array of specialty services will also be available on-site. Primary care services will be provided to elementary school children at PS 57. The Institute accepts all patients regardless of income, age, sex, or race. Services will be available to all patients regardless of ability to pay through the use of a sliding fee scale that is based on income and family size. Health education and disease prevention will be a regular part of every patient visit to a family physician or family nurse practitioner. Patients will also have access to free or low-cost medications through the Institute's Patient Assistance Program (PAP) and 340B pharmacy program. Access to these services is facilitated by social workers and/or case managers.

- (b) Describe how this project is consistent with your facility's Community Service Implementation Plan (voluntary not-for-profit hospitals) or strategic plan (other providers).

The Institute's strategic planning process addresses the importance of increasing access to services in underserved communities, insuring that all patients, regardless of source of payment, have access to a full range of services. This project is consistent with that goal. Specifically, the site will be incorporated into the Institute's federal scope of service, designating it as a federally qualified health center.

5. Describe where and how the population to be served currently receives the proposed services.

North General Hospital's Diagnostic and Treatment Center offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties, and cancer care. In 2009, the Center provided 76,407 visits in total including primary care, dental, mental health, and specialty services. As previously noted, the vast majority of patients served come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas. In addition to North General, three federally qualified health centers provide services in Central and East Harlem: Helen B. Atkinson Health Center, Boriken Neighborhood Health Center, and Settlement Health Center. The community is also served by Mount Sinai, Harlem Hospital Center, and Metropolitan Hospital Center. Despite these resources, more than one quarter of residents in the community – or approximately 65,000 people – report not having a doctor and roughly 13% – or about 38,000 people – reported being in need of care but not receiving it. Further, approximately 10% of residents – nearly 26,000 people – went without health insurance at some time during the past year.

Quality and Accreditation:

1. Please cite relevant accreditations, certifications or awards attained by the applicant which build confidence in services of high quality. Examples include certification as a Federally Qualified Neighborhood Health Center.

The Institute for Family Health is a federally qualified community health center network, founded in 1983, dedicated to developing innovative ways to provide primary health services to medically underserved populations based on the family practice model of care. The Institute has a strong track record of success in operating high-quality clinical programs, most of which are developed and operated collaboratively with community-based organizations, hospitals, and medical schools. Since 2005, the Institute has been fully accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO). In August 2009, the Institute achieved Level 3 certification as a Patient Centered Medical Home from the National Committee for Quality Assurance, the first health center network in New York State to achieve this distinction. In 2007, the Institute was named a National Center of Excellence in the Elimination of Disparities and a National Center of Excellence in Public Health Informatics by the Centers for Disease Control.

2. Describe relevant programs or resources the applicant will bring to the new facility. Include existing programs that have proven track records at the applicant's other sites, if applicable, as well as programs the applicant plans for the future. Such programs include:
 - a. Programs specially tailored to the health needs of the population of the service area.
 - b. Grant funded programs.
 - c. Scholarships or fellowships.

The Institute currently operates 15 full-time health centers and nine part-time centers through its federal Section 330 community health center grant program. The Institute's network cares for over 70,000 patients and provides over 240,000 visits per year. The majority of patients served are minority, low-income, publicly insured, or uninsured. Of the full-time centers, four are located in Manhattan, including a school-based health center, and five are located in the Bronx. The remaining six full-time centers were acquired in January 2007 and are located in the Mid-Hudson Valley, about 90 miles north of New York City. One of the part-time centers that the Institute operates is also located in this region. Eight part-time centers in Manhattan are operated in conjunction with Care for the Homeless of New York. These sites provide primary care, health education, and outreach at community sites which serve homeless individuals and families.

In addition to its health centers, the Institute operates numerous programs that support the goals of eliminating health disparities and providing access to quality health care to all, regardless of ability to pay. These include Bronx Health REACH, funded by the Centers for Disease Control to eliminate racial disparities in health outcomes in diabetes; the New York Metropolitan Area Health Education Center (AHEC), which focuses on increasing the diversity of the healthcare workforce and recruiting providers to underserved communities; three Ryan White programs that provide comprehensive medical, mental health and other services to people affected by HIV/AIDS; and two free clinics operated in collaboration with medical students from the Albert Einstein College of Medicine and the New York University School of Medicine. The Institute also operates two residency training programs in family medicine designed to train providers to serve the underserved: the Manhattan program is affiliated with the Beth Israel Medical Center and has an urban focus, and the Kingston program is affiliated with the Kingston Hospital and emphasizes rural practice.

3. Describe the applicant's experience or track record serving similar populations:

The Institute has been providing health care services and operating community health promotion programs to underserved urban communities in New York City since 1983. The population of the Institute's service areas in the Bronx and Manhattan is predominantly black and Hispanic, including African Americans, Caribbean-Americans, and new immigrants from Africa, and Central and South America. Similar to the service area population in Harlem, these minority groups face significant health problems, including high rates of HIV/AIDS, asthma, diabetes, obesity, and depression, as well as numerous socioeconomic hardships, including poverty, low literacy and education levels, high unemployment, and lack of health insurance. Many do not speak English, or have limited English proficiency. The Institute's health care delivery system addresses many of these issues by providing a full range of primary medical care, specialty care, dental services, mental health, and other services at each of its practices, either directly or by referral.

In the Institute's service areas for both the Bronx and Manhattan, our community health centers help to fill a tremendous need for primary care services. All of the centers are located in or next to Health Professional Shortage Areas (HPSAs) and/or Medically Underserved Areas (MUAs). In New York City, the Bronx target service area includes six primary medical

care HPSAs, two dental HPSAs, one mental health HPSA, and four MUAs; the Manhattan target service area includes one primary care HPSA, one dental HPSA, two mental health HPSAs, and five MUAs.

**Primary and Specialty Care Services Review Criteria:
Expansion of Services**

When a CON application proposes conversion of a group or solo medical practice to Article 28 status, the applicant must provide a written analysis of the effect of the proposal on the following factors:

1. The full time equivalent (FTE) number of primary care physicians and specialists, by specialty, engaged in the practice after the conversion compared with the number before conversion.

2. The (FTE) number of non-physician providers of primary care and specialty care, by specialty, such as Physician Assistants, Certified Nurse Practitioners, Physical Therapists, and Dental Assistants after the conversion compared with the number before conversion.

3. The number of primary care and specialty visits, by specialty, after the conversion compared with the number before conversion.

4. The array of services to underserved clients after the conversion compared with the number before conversion.

Target Population and Service Area:

All applications involving primary care services must provide a written analysis that clearly demonstrates that the proposal meets at least one of the following criteria. For criteria that do not apply, enter "not applicable":

1. The proposed clinic is in an underserved area as indicated by location in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA).

The vast majority of patients served by North General Hospital come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas.

2. The population to be served exhibits poor health status, as measured by factors such as high levels of inpatient discharges for ambulatory care sensitive conditions (ACSC), incidences of diseases and conditions in excess of standards in Healthy People 2010 or other pertinent indicators.

According to the NYC Department of Vital Statistics, the Harlem community has high mortality rates in many disease categories, with the highest mortality rates in NYC for 15 causes of death. Among 42 NYC neighborhoods in 2003-4, Central Harlem and East Harlem rank among the worst (39th and 41st, respectively) in terms of the average annual death rate for people younger than 75 years. The primary cause of premature death is cancer in Central Harlem and heart disease in East Harlem. It is well documented that there are a number of chronic diseases and conditions that affect the African American and Latino populations disproportionately. In Central and East Harlem, 12% and 13% of adults have diabetes, respectively, compared to 9% in NYC overall. In addition, approximately one third of all adults in Central and East Harlem are obese (far above the Healthy People 2010 goal of 15%).

Central and East Harlem residents are also more likely (11% and 22%) to go to the emergency department when they are sick or need health advice than those in NYC overall (9%). The NYC Department of Health and Mental Hygiene reports that in 2003-4, residents of Central and East Harlem had an average annual hospitalization rate that was 15% and 45% higher, respectively, than the rate in NYC overall (2,122/100,000 in Central Harlem and 2,706/100,000 in East Harlem vs. 1,856/100,000 in NYC).

The rate of HIV diagnoses and the rate of people living with HIV/AIDS in Central and East Harlem are more than twice the rates in NYC overall. The average annual HIV-related death rate in Central Harlem (47/100,000) and East Harlem (68/100,000) also is considerably higher than in NYC (18/100,000).

The infant mortality rate (per 1,000 live births) is 6 in Central Harlem and 8 in East Harlem, both above the Healthy People 2010 goal of 4.5. Similarly, the percentage of newborns under 2,500 grams is 11% in Central Harlem and 9% in East Harlem, both above the Healthy People 2010 goal of 5%. Drug-related deaths per 100,000 in Central and East Harlem also exceed the Healthy People 2010 goal (25 and 25 vs. fewer than 8).

3. The primary care services of the proposed clinic will be targeted to a group or population with special needs or conditions that make it difficult for them to obtain adequate primary care in clinics or physician practices serving the general population. Examples of such needs and conditions are:
- Developmental disabilities.
 - HIV.
 - Alcohol Substance Abuse.
 - Health needs relating to aging.
 - Mental Health needs.
 - Homelessness
 - Linguistic or cultural barriers in obtaining access to primary care.

The services and activities that the Institute proposes will specifically address the well-documented health care needs and disparities of local residents and are designed in such a way as to remove traditional barriers to care such as language, culture, transportation, lack of health insurance, and income. The project will provide a medical home for the underserved residents with both acute and chronic health care needs, as well as access to health promotion/disease prevention services.

As previously mentioned, all of the health centers operated by the Institute provide services based on the family practice model of care. This model of primary care provides comprehensive health care for individuals and families over their entire lifespan. The majority of Institute providers are family physicians or family nurse practitioners. Providers work in teams with social workers and mental health practitioners to address patients' needs in a comprehensive manner. Mental health services, including psychiatric evaluations and mental health counseling will be available on-site. Clinical social workers provide short-term counseling and psychiatrists work closely with medical providers and social workers to care for patients with more serious mental health issues. The psychiatrists provide psychiatric evaluations, treatment plans, follow-up consultations, prescriptions and monitoring of medications.

The Institute is aware of the important roles that culture, language, and ethnicity play in the provision of quality health care, and makes every effort to recruit and hire medical and mental health professionals who reflect the communities we are serving. Health education programs are offered in English and Spanish, and written patient materials are available in Spanish and are appropriate for all literacy levels. The Institute also subscribes to language line services that make translation immediately available in almost any language via phone. All Institute employees are required to attend a two-day diversity training. In 2006, the Institute received grant funding to implement a cultural competency training program for its providers. Additionally, our award-winning electronic health record (EHR) system facilitates access to literacy- and language-appropriate health information.

In addition, the Institute has a long and successful history of integrating HIV services into our community health centers. The Institute has received Ryan White funding since 1992 and currently operates three Ryan White (Part A and B) programs that provide comprehensive medical, case management, mental health, treatment adherence (including directly observed therapy) and other services to people affected by HIV/AIDS. All Institute Ryan White (Part A and B) programs monitor patient adherence to primary care appointments and work to relieve barriers so that patients receive continuous care.

Lastly, the Institute currently operates eight part-time centers in Manhattan in conjunction with Care for the Homeless of New York. These sites provide primary care, health education, and outreach at community sites that serve homeless individuals and families. Further, the Institute has experience at all of its sites of providing care for individuals who may be defined as temporarily homeless due to separation, loss of job, or some other economic or personal situation. The Institute will apply this expertise to its services at the North General site.

Capacity of Existing Primary Care Providers

The project narrative should describe existing primary care services in the proposed service area. The narrative should include the number and location of existing D&TCs, extension clinics and part-time clinics and a summary of primary care services available through private practices. The narrative should indicate whether travel time and transportation are factors in access to primary care. Examples of travel related issues include topography, seasonal weather conditions, and availability of public transportation. Applicants are not expected to describe the volume of services delivered by existing

providers, since they will rarely have access to such data, but the project narrative should indicate that the applicant is reasonably familiar with the overall availability of primary care in the targeted area.

In instances where the target area is likely to already have significant primary care resources, the CON proposal will be reviewed for the following need related factors:

- The ratio of primary care physicians to population in the proposed service area. HPSA uses a ratio of 1.0 FTE physicians to 3000 persons; Medicaid Managed Care uses a ratio of 1 to 1500.
- The number of primary care physicians in the proposed service area who are "active" in serving the Medicaid population. This is often measured as physicians who are reimbursed \$5000 or more per year by Medicaid.
- The annual number of primary care visits per person by Medicaid eligible persons in the proposed service area. An average lower than 2.0 visits per person is often considered a problem.
- The percentage of the Medicaid population that is enrolled in Managed care will be taken into account where appropriate.
- The current volume of primary care visits to existing D&TC and Extension clinics.

Not all of the above criteria need be evaluated for all applications. The number will vary depending on the type and location of services proposed and on how thoroughly the application addresses need in the project narrative and the related schedules.

As previously noted, North General Hospital's Diagnostic and Treatment Center offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties. In 2009, the Center provided 76,407 visits in total including primary care, dental, mental health, and specialty services. Data indicates a high level of utilization for care related to chronic conditions and diseases such as diabetes, HIV/AIDS, hypertension, cancer and asthma. Dental visits reflect a need for general dental care and examinations related to decay/dental caries. Mental health visits reflect a high level of utilization related to care for depression, a condition that has been demonstrated through research to have a high degree of co-morbidity in relation to other severe chronic health conditions and diseases such as diabetes, HIV/AIDS, and cancer.

In addition to North General, three federally qualified health centers provide services in Central and East Harlem: Helen B. Atkinson Health Center (81 W. 115th Street), Boriken Neighborhood Health Center (2253 Third Avenue), and Settlement Health Center (212 East 106th Street). The community is also served by Mount Sinai (1189 5th Avenue; 1171 beds and three D&TCs), Harlem Hospital Center (506 Lenox Avenue; 286 beds), and Metropolitan Hospital Center (1901 First Avenue; 363 beds). Other providers include Comprehensive Care Management D&TC (216 East 99th Street) and Morrisania D&TC (158 East 115th Street). In spite of these resources, Central Harlem and East Harlem remain Medically Underserved Areas and Health Professional Shortage Areas.

Need Review for Specialty Clinics:

Applications not involving primary care services must also provide a written analysis that clearly demonstrates that the need exists for the proposed services

4. Is the proposed clinic in an underserved area as indicated by location in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA)?

As indicated above, the vast majority of patients served by North General Hospital come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas.

5. Describe in very specific terms the patients who require the specialty services, including the number of patients and their specific health problems, and how the proposed facility will meet their needs better than existing providers.

The specialty services provided at the North General Center will include the following: orthopedics, rehabilitation medicine, gastroenterology, cardiology, hepatology, neurology, urology, dermatology, ENT, kidney/hypertension,

ophthalmology, hematology, and addiction treatment services. Based on utilization in previous years and anticipated trends, the Institute expects to provide roughly 29,000 specialty visits during its first year operating the North General Center. The majority of patients served are African American or Latino and suffer disproportionately from chronic conditions and diseases that require treatments and services available only through specialty providers. In addition to high rates of cancer, the Center cares for a large number of patients with diabetes and heart disease and patients who have suffered one or more strokes.

6. In the case of Dental clinics, is the application supported by the local Health Department? Is the proposal supported by the Department of Health's Bureau of Dental Services? Is the applicant participating in current dental health initiatives? Has the applicant consulted with resources such as the New York State Oral Health Technical Assistance Center?

The North General Center provides approximately 4,500 dental visits to community residents annually, most of who are uninsured or receive Medicaid. The ongoing need for oral health services for this high-need and underserved population cannot be overstated. Dental visits reflect a need for general dental care and examinations related to decay and dental caries for children and adults, and for patients with diabetes, pregnant women, and the elderly in particular.

The Institute currently provides dental health services at three of its sites: one in the Bronx, and two in Ulster County. In addition, the organization has been awarded a grant for the past few years from the New York State Department of Health's Bureau of Dental Services to provide dental care and education to youth in Ulster County. We will continue to collaborate with the DOH to provide high quality dental services to the residents of Harlem.

Impact of Proposed CON on Diagnostic & Treatment Center Operating Certificate

TABLE 17C-1 AUTHORIZED SERVICES

Instructions:

For applications requesting changes to more than one location, complete a separate Table 17-G-1 for each location
For Chronic Dialysis Services only, enter only location below and proceed to page 2
Column c: Mark "x" in the box only if the service currently appears on the operating certificate (OpCert) not including requested changes
Column d: Mark "x" in the box this CON application seeks to add. **Column e:** Mark "x" in the box this CON application seeks to decertify.
Column f: Mark "x" in the box corresponding to all the services that will ultimately appear on the OpCert.

LOCATION:

(Enter street address of facility)

MOBILE CLINIC DESIGNATION (217) *

Check box only if extension clinic is mobile
(A mobile clinic must be an extension clinic with a fixed main site)

a	b	c	d	e	f
		Existing	Add	Remove	Proposed
ABORTION	201	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ADULT DAY HEALTH	58	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ADULT DAY HEALTH - AIDS	172	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMBULATORY SURGERY**					
MULTI-SPECIALTY**	204	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SINGLE-SPECIALTY** (UNDESIGNATED SPECIALTY)	205	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GASTROENTEROLOGY**	202	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OPHTHALMOLOGY**	195	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ORTHOPEDICS**	203	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AUDIOLOGY O/P (See Section 700.2)	159	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BIRTHING SERVICE O/P	180	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CERTIFIED MENTAL HEALTH SERVICES O/P***	53	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CHEMICAL DEPENDENCE-REHABILITATION O/P	150	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CLINIC OMRDD ARTICLE 16 SERVICES	218	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CLINIC PART-TIME SERVICES****	18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CLINICAL LABORATORY SERVICES O/P	018	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CT SCANNER	400	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DENTAL O/P	145	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FAMILY PLANNING O/P	148	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HEALTH FAIRS O/P	197	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HYPERBARIC CHAMBER	401	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LINEAR ACCELERATOR	402	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LITHOTRIPSY O/P	223	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAGNETIC RESONANCE IMAGING (MRI)	403	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEDICAL SOCIAL SERVICES O/P	50	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
METHADONE MAINTENANCE O/P	149	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MULTIPHASIC SCREENING FACILITY	305	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MULTIPHASIC SCREENING O/P	188	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCLEAR MEDICINE -- DIAGNOSTIC O/P	224	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCLEAR MEDICINE -- THERAPEUTIC O/P	225	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* MOBILE CLINIC: For each location a clinic vehicle will parks to provide services, a separate "Mobil Clinic Site Approval Request" must be attached. A blank form is included below.

** AMBULATORY SURGERY requires additional approval by Medicare

*** MENTAL HEALTH requires additional approval by Office of Mental Health

**** PART-TIME CLINICS: For each site, enclose a completed copy of form DOH-4-197 (9/00), which is available from:
Project Management Group, Division of Health Facility Planning, Office of Health Systems Management,
New York State Department of Health, 433 River Street, 6th floor, Troy, NY 12180

New York State Department of Health
Certificate of Need Application

Schedule 17C

TABLE 17C-1 AUTHORIZED SERVICES (cont.)

a	b	c	d	e	f
		Existing	Add	Remove	Proposed
NUTRITIONAL O/P	185	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OPHTHAMOLOGY O/P	227	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPTOMETRY O/P	228	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OUTPATIENT SURGERY	68	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PEDIATRICS O/P	152	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PET SCANNER	404	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHARMACEUTICAL SERVICES	073	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICAL MEDICINE AND REHABILITATION O/P	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PODIATRY O/P	177	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRENATAL O/P	081	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRIMARY MEDICAL CARE O/P	071	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PSYCHOLOGY O/P	085	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
RADIOLOGY - DIAGNOSTIC	184	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
RADIOLOGY - THERAPEUTIC	230	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RENAL DIALYSIS - HOME TRAINING O/P	37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - OCCUPATIONAL O/P	146	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - PHYSICAL O/P	147	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
THERAPY - RESPIRATORY O/P	231	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - SPEECH LANGUAGE PATHOLOGY	155	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - VOCATIONAL REHABILITATION	107	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRANSFUSION SERVICES - FULL	102	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRANSFUSION SERVICES - LIMITED	189	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WELL-CHILD	186	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

END STAGE RENAL DISEASE (ESRD)

TABLE 17C-1(a) CAPACITY	Existing	Add	Remove	Proposed
CHRONIC DIALYSIS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If application involves dialysis service with existing capacity, complete the following table:

TABLE 17C-1(b) PROCEDURES	Last 12 mos	2 years prior	3 years prior
CHRONIC DIALYSIS			

All Chronic Dialysis applicants must provide information requested on the following page in compliance with 10 NYCRR 670.6.

END STAGE RENAL DISEASE (cont.)

1. Provide a five-year analysis of projected costs and revenues that demonstrates that the proposed dialysis services will be utilized sufficiently to be financially feasible.

2. Provide evidence that the proposed dialysis services will enhance access to dialysis by patients, including members of medically underserved groups which have traditionally experienced difficulties obtaining access to health care, such as; racial and ethnic minorities, women, disabled persons , and residents of remote rural areas.

3. Provide evidence that the hours of operation and admission policy of the facility will promote the availability of dialysis at times preferred by the patients, particularly to enable patients to continue employment.

4. Provide evidence that the facility is willing to and capable of safely serving patients.

5. Provide evidence that the proposed facility will not jeopardize the quality of care or the financial viability of existing dialysis facilities. This evidence should be derived from analysis of factors including, but not necessarily limited to current and projected referral and use patterns of both the proposed facility and existing facilities. A finding that the proposed facility will jeopardize the financial viability of one or more existing facilities will not of itself require a recommendation to of disapproval.

Table 17C-2 - Projected Utilization of Services:

The number of projected "visits" should be listed in this table for each existing or proposed certified service. Visits should be estimated for the current, first and third year of the project. This table should contain visit estimates for services at this site alone, not for the applicant's other sites.

(Service classification and description are from the listings above)		Current Year	1st Full Year of project	3rd Full Year of project
Service Classification Code	Description	Visits	Visits	Visits
419	Primary Care	20,840	20,840	20,840
416	Pediatrics	8,885	8,885	8,885
417	Podiatry	4,354	4,354	4,354
478	Gynecology/ Prenatal	4,205	4,205	4,205
493	ATC	5,710	5,710	5,710
407	Dental	4,533	4,533	4,533
420	Mental Health Clinic	10,500	10,500	10,500
	HIV Clinic	6,822	6,822	6,822
	School Based Hlth Ctr	1,157	1,157	1,157
	Orthopedics	2,570	2,570	2,570
	Rehab Medicine	1,544	1,544	1,544
	Gastroenterology	1,347	1,347	1,347
	Hepatology	864	864	864
	Cardiology	1,279	1,279	1,279
	Neurology	1,435	1,435	1,435
	Urology	1,313	1,313	1,313
	Dermatology	1,037	1,037	1,037
	ENT	1,028	1,028	1,028
	Kidney / Hypertension	865	865	865
	Ophthalmology	678	678	678
	Hematology	1,259	1,259	1,259
Total Visits:		82,225	82,225	82,225

D&TC Allocation of Operating Costs

See "Schedules Required for Each Type of CON" to determine when this form is required.

This schedule breaks out operating costs across various categories. A two page table must be completed for the current, first and third year of operation.

Table 17D-1 D&TC Allocation of Operating Costs Current Year: from 1/1/2010 to 12/31/2010 (m/d/yyyy)

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total/After Distribution
328	TOTAL ADJUSTED COSTS									
	I. Core Cost Centers									
329a.	Administration	\$7,560,852	\$1,482,191	\$823,544	\$815,423	\$1,040,987		\$11,722,997	\$817,342	\$12,540,340
330b.	Facility	\$686,678	\$134,613	\$74,794	\$74,057	\$2,715,890		\$3,686,032	\$0	\$0
331c.	Patient Transportation									
332	Subtotal	\$8,247,530	\$1,616,804	\$898,338	\$889,480	\$3,756,877		\$15,409,029	\$817,342	\$12,540,340
	II. Patient Care Cost Centers									
	a. Multi-service, Child Health									
333	1. Medical	\$19,904,827	\$3,902,043	\$2,168,077	\$1,803,863	\$2,740,519		\$30,519,329	\$2,151,749	\$32,671,078
334	2. Dental	\$916,412	\$179,649	\$99,818	\$83,049	\$126,173		\$1,405,101	\$99,066	\$1,504,166
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$3,488,285	\$683,826	\$379,952	\$316,124	\$480,271		\$5,348,458	\$377,090	\$5,725,548
339	7. Rehab. Therapies									
340	8. Other Health	\$2,227,390	\$436,646	\$242,612	\$201,856	\$306,670		\$3,415,174	\$240,785	\$3,655,959
341	SUBTOTAL a	\$26,536,914	\$5,202,164	\$2,890,459	\$2,404,892	\$3,653,633		\$40,688,062	\$2,868,690	\$43,556,751
	b. Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b									
	c. Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c									
	d. Cerebral Palsy & Rehab.									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

Current Year Continued:

Table 17D-1 D&TC Allocation of Operating Costs

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & g)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
383	3.									
384	SUBTOTAL j									
389	SUBTOTAL k									

New York State Department of Health
Certificate of Need Application

Schedule 17D

Table 17D-1 D&TC Allocation of Operating Costs

First Year of project: from 11/1/2011 to 12/31/2011 (m/d/yyyy)

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
328	TOTAL ADJUSTED COSTS									
	I. Core Cost Centers									
329a	Administration	\$314,000	\$103,892	\$0	\$0	\$0	\$0	\$417,892	\$0	\$417,892
330b	Facility	\$154,000	\$50,954	\$0	\$0	\$928	\$0	\$205,882	\$0	\$0
331c	Patient Transportation									
332	Subtotal	\$468,000	\$154,846	\$0	\$0	\$928	\$0	\$623,774	\$0	\$417,892
	II. Patient Care Cost Centers									
	a. Multi-service, Child Health									
333	1. Medical	\$3,468,345	\$1,147,564	\$0	\$467	\$3,148,980	\$0	\$7,765,355	\$112,941	\$7,878,296
334	2. Dental	\$416,187	\$137,703	\$0	\$47	\$316,462	\$0	\$870,398	\$11,350	\$881,748
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$811,663	\$268,553	\$0	\$109	\$733,035	\$0	\$1,813,360	\$26,291	\$1,839,651
339	7. Rehab. Therapies	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
340	8. Other Health	\$1,796,154	\$594,289	\$0	\$229	\$1,541,887	\$0	\$3,932,560	\$55,300	\$3,987,860
341	SUBTOTAL a	\$6,492,349	\$2,148,109	\$0	\$851	\$5,740,364	\$0	\$14,381,673	\$205,882	\$14,587,555
	b. Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b									
	c. Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c									
	d. Cerebral Palsy & Rehab.									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

Table 17D-1 D&TC Allocation of Operating Costs

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & g)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
384	3.									
389	SUBTOTAL j									

Table 17D-1 D&TC Allocation of Operating Costs

Third Year of project from 1/1/2012 to 12/31/2013 (m/d/yyyy)

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
328	TOTAL ADJUSTED COSTS									
I.	Core Cost Centers									
329a.	Administration	\$317,639	\$105,154	\$0	\$0	\$0	\$0	\$422,793	\$0	\$422,793
330b.	Facility	\$155,784	\$51,573	\$0	\$0	\$985	\$0	\$208,342	\$0	\$0
331c.	Patient Transportation									
332	Subtotal	\$473,423	\$156,727	\$0	\$0	\$985	\$0	\$631,135	\$0	\$422,793
II.	Patient Care Cost Centers									
a.	Multi-service, Child Health									
333	1. Medical	\$3,508,532	\$1,161,501	\$0	\$495	\$3,340,753	\$0	\$8,011,281	\$110,861	\$8,122,141
334	2. Dental	\$421,009	\$139,375	\$0	\$50	\$335,734	\$0	\$896,168	\$12,401	\$908,570
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$821,068	\$271,815	\$0	\$115	\$777,677	\$0	\$1,870,675	\$25,886	\$1,896,561
339	7. Rehab Therapies	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
340	8. Other Health	\$1,816,966	\$601,507	\$0	\$243	\$1,848,885	\$0	\$4,267,601	\$59,194	\$4,326,795
341	SUBTOTAL a	\$6,567,575	\$2,174,198	\$0	\$903	\$6,303,049	\$0	\$15,045,725	\$208,342	\$15,254,067
b.	Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b									
c.	Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c									
d.	Cerebral Palsy & Rehab.									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

Third Year Continued:

Table 17D-1 D&TC Allocation of Operating Costs

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total/After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & g)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
384	3.									
389	SUBTOTAL j									

**New York State Department of Health
Certificate of Need Application**

Schedule 17E

Schedule 17 E - D&TC Statement of Revenue:

This schedule consists of: "Detailed Monthly Cash Flow Analysis for the first year of operations to be submitted as an attachment; and analysis of:"

- Patient Revenue
- Other Operating Revenue
- Non-Operating Revenue
- Charges

Provide a breakdown of the utilization (threshold visits) by payer source. Provide supporting calculations for the rates assumed for each payer.

Table 17E-1 D&TC Statement of Revenue

I. Patient Revenue	Commercial	405,230
	Medicare	861,526
		460,319
	Medicaid	4,263,972
		4,207,849
	Private Pay	327,838
	OASAS	
	OMH	
	Charity Care	63,000
	Bad Debt	
	Ordered Ambulatory Services	
	All Other	
TOTAL	10,589,734	
II. Other Operating Revenue	Sale of Literature	
	Sale of Supplies to Other than Patients	
	Telephone	
	Other	
	TOTAL	
III. Non-Operating Revenue	Gifts, Legacies, and Bequests	
	Grants	7,000,000
	Community Health Center (Sec 330)	
	Maternal and Child Health (Title V)	
	WIC Administrative Funds	
	Primary and Ambulatory Care Program	
	Local Health Assistance Funds	
	Family Planning	
	Other Grants (Specify)	
	Other Non-Operating Revenue	
TOTAL	7,000,000	
IV. Total Revenue (I, II, and III)	17,589,734	



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

June 4, 2010

***CORRECTED LETTER**

Mr. Edward M. Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

Re: ~~101115#E~~

North General Family Health Center
(New York County)
Assume operation of a North General
extension clinic, the Ralph Lauren
Cancer Center, located at
1889 Madison Avenue, New York
"Safety Net"

Dear Mr. Fried:

The above referenced CON application, for which you have been designated the contact person, has been distributed to all reviewing units and, if operating, your local health systems agency for processing in accordance with 10 NYCRR 710. Please refer to the enclosed Important Notice for further information with respect to this process.

The mandatory review of your project for the criteria of public need, financial feasibility, and character and competence as required by the Public Health Law may determine that the proposal is unapprovable. Therefore, prior to entering into any contractual commitments or commencing construction, the final determination of the Director of the OHSM, or Public Health Council if establishment is involved, must be obtained.

Sincerely,

Jeffrey R. Rothman, M.S., M.B.A.
Director
Bureau of Project Management

Enclosure
JRR/nm



PMW

DOH STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

June 10, 2010

Mr. Edward M. Fried
Institute for Family Health
16 East 16th Street
New York, NY 10003

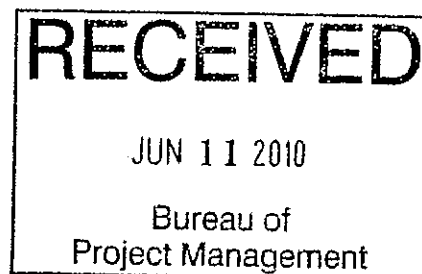
Re: 101115-E
North General Family Health Center
(New York County)

Dear Mr. Fried:

Review of the above application has revealed the need for the additional information requested in the enclosure from the Bureau of Financial Analysis. In preparing answers to the questions, please repeat each question and then provide the answer. Please submit your response within 30 days of the date of this letter in accordance with 10 NYCRR 710.3(a), as follows:

1. One copy to the Bureau of Financial Analysis, New York State Department of Health, Hedley Park Place, 6th Floor, 433 River Street, Troy, New York 12180-2299.
2. An original and eight copies of your response to Jeffrey Rothman, Director, Bureau of Project Management, New York State Department of Health, Hedley Park Place, 6th Floor, 433 River Street, Troy, New York 12180-2299.

Processing of your application by the Bureau of Financial Analysis cannot be completed until the information is received and reviewed. Also, if this project requires review by the State Hospital Review and Planning Council, such review may have to be delayed if the requested information is not received promptly (particularly if the Bureau of Financial Analysis does not receive a separate copy). Accordingly, you are encouraged to submit the response at your earliest opportunity. In this regard, be advised that a single faxed response to this request does not constitute a full and complete response.



If you have any questions on the information being requested, please contact the individual identified on the enclosure.

Sincerely,

CPA

Charles P. Abel, Director
Bureau of Financial Analysis

Enclosure

June 10, 2010

101115-E
North General Family Health Center
(New York County)

The following questions have been prepared by the Bureau of Financial Analysis. If additional information is needed, please contact Bill Lindenman at (518) 402-0953.

1. Please provide 2009 Certified Financial Statements for The Institute for Family Health, Inc. Also, provide the latest 2010 internal financial statements. If applicable, address the reason(s) for the losses and steps implemented to improve operations.
2. Please provide written confirmation or commitment for the Heal grant. Please breakout the components of the Heal grant such as; purchase of equipment, working capital; financial support for labor etc. and the length of the support.
3. Please provide written confirmation or commitment from Polo Ralph Lauren Corporation and Sloan Kettering Cancer Center for their financial assistance. Please provide the details as to: amount; use, working capital and/or operating loss, and the time frame for the support. Please describe how the losses and working capital needs will be shared between Polo Ralph Lauren Corporation, Sloan Kettering Cancer Center, and The Institute for Family Health, Inc.
4. Will the Memorial Sloan-Kettering Cancer Center (MSKCC) continue be involved in the Ralph Lauren Center for Cancer Care & Prevention, if so please provide further details.
5. Please provide Schedule 13D, Annual Operating Revenues, for the current year, 1st and 3rd years,
 - Please explain any differences in revenues between years by payors;
 - Note it appears some of the non-operating income on Schedule 17E, D&TC Statement of Revenue, should be considered working capital. Based upon the department's policy of two months of third year expenses, working capital should be approximately \$3,965,910. Thus this amount would be excluded from non-operating revenues leaving expenses exceeding revenues in nearly the same amount. *Is there anyway this short fall can be covered?*
 - Please explain any differences in visits between years by payors –
 - Note according to Schedule 17C, Projected Utilization of Services, the only change was in the line item "Mental Health Clinic" which went from 9,467 visits in the current year to 15,000 visits.
6. Please confirm Schedule 13C, Annual Operating Expenses -
 - Current Year Column - represents costs to operate the following facilities
 - North General Diagnostic & Treatment Center at 1879 Madison Avenue
 - Addiction Treatment Center at 1824 Madison Ave
 - School Based Diagnostic & Treatment Center at PS 57 176 East 115th St
 - Ralph Lauren Center for Cancer Care & Prevention at 1919 Madison Ave
 - 1st and 3rd Year columns entitled "Incremental Cost Impact" – are for the "Total Costs" to run the programs for the 1st and 3rd years in the following locations -

- D&TC at 1879 Madison Avenue
- Addiction Treatment Center at 1824 Madison Ave
- School Based Diagnostic & Treatment Center at PS 57 176 East 115th St
- Ralph Lauren Center for Cancer Care & Prevention at 1919 Madison Ave

7. Reference Schedule 17 D-1 D&TC Allocation of Operating Cost – Please provide the reasons why the functional operating costs declined by \$33,436,642, going from \$56,096,091 in the current year to \$22,659,449 by the completion of the 1st year. Also address the reduction in staffing levels as shown on Schedule 13 B.

Current Yr- North General	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distributions
Administration	7,560,852	1,482,191	823,544	814,423	1,040,987	817,342	12,539,339
Medical	19,904,827	3,902,043	2,168,077	1,803,863	2,740,519	2,151,749	32,671,078
Dental	916,412	179,649	99,818	83,049	126,173	99,066	1,504,167
Mental Health	3,488,285	683,826	379,952	316,124	480,271	377,090	5,725,548
Other Health	2,227,390	436,646	242,612	201,856	306,670	240,785	3,655,959
Total North Gen	34,097,766	6,684,355	3,714,003	3,219,315	4,694,620	3,686,032	56,096,091

1st Year- Institute Family Health	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distributions
Administration	0	0	0	0	0	0	0
Medical	3,468,345	1,147,564	0	467	3,148,979	342,183	8,107,538
Dental	416,187	137,703	0	47	316,462	34,388	904,787
Mental Health	811,663	268,553	0	109	733,035	79,655	1,893,015
Other Health	3,995,776	968,225	509,000	1,237,229	4,466,986	576,893	11,754,109
Total Institute Family Health	8,691,971	2,522,045	509,000	1,237,852	8,665,462	1,033,119	22,659,449

Difference between Curr Year and 1st Year-	Salary	Employee Benefits	Purchase Contracts	Supplies	General Costs	Distribution of Facility	Total After Distributions
Administration	(7,560,852)	(1,482,191)	(823,544)	(814,423)	(1,040,987)	(817,342)	(12,539,339)
Medical	(16,436,482)	(2,754,479)	(2,168,077)	(1,803,396)	408,460	(1,809,566)	(24,563,540)
Dental	(500,225)	(41,946)	(99,818)	(83,002)	190,289	(64,678)	(599,380)
Mental Health	(2,676,622)	(415,273)	(379,952)	(316,015)	252,764	(297,435)	(3,832,533)
Other Health	1,768,386	531,579	266,388	1,035,373	4,160,316	336,108	8,098,150
Total of the Differences	(25,405,795)	(4,162,310)	(3,205,003)	(1,981,463)	3,970,842	(2,652,913)	(33,436,642)

8. Please confirm your leasing arrangements

- 1879 Madison Ave – Lease is for one (1) year in length with one (1) renewal option for 5 years.
 - Do you plan on exercising this renewal option?
- 1919 Madison Ave – Lease ends July 31, 2012
 - What is the Annual Rent for 2011 and 2012?
 - Is there a renewal option, and if so what is it? And do you plan on exercising it?
 - What is the square footage?

9. Reference the proposed lease at 1879 Madison Ave - please explain Section 1.08 where it talks about entering into a "ground lease" for the annex building located at 1824 Madison Ave. Also, please provide the terms including any additional rent, utilities, etc. and square footage.
10. What is the basis for expense and utilization assumptions?
11. Please provide Schedules 3b, Basic Legal Information and Documentation and Schedule 4 Legal Information for Ownership Transfer.
12. Will you be operating under an assumed name, if so please provide the proposed documentation?
13. Will you be entering into any Management or Administrative Agreements, if so please provide a copy of the proposed agreement?
14. Schedule 8B, Total Project Cost, please provide the start and expected completion dates. Also, as of April 1, 2009 the fees have changed – The application Fee on Line 9.2 for a "Safety Net" facility under full review is .0045 of Line 8 or \$1,909 (Line 8 $\$424,316 \times .0045 = \$1,909$). Please revise Schedule 8B and Schedule 9.



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

May 17, 2010

Mr. Edward Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

RE: 101115 C
North General Family Health Center
(New York)
Assume operation of a North General
extension clinic, the Ralph Lauren Cancer
Center, located at 1889 Madison Avenue,
New York - "Safety Net"

Dear Mr. Fried:

Review of the above application has revealed the need for the additional information requested in the enclosure from the Bureau of Architectural and Engineering Facility Planning. In preparing answers to the questions, please repeat each question and then provide the answer. Please submit your response within 30 days of the date of this letter in accordance with 10 NYCRR 710.3(a), as follows:

1. An original and eight (8) copies of your response to the Bureau of Project Management, New York State Department of Health, Hedley Park Place, 6th Floor, 433 River Street, Troy, New York, 12180-2299. Drawings should not be sent to Project Management.
2. One copy, including all drawings associated with this project, to the Bureau of Architectural and Engineering Facility Planning, New York State Department of Health, Hedley Park Place, 6th. Floor, 433 River Street, Troy, New York 12180-2299.

Processing of your application by the Bureau of Architectural and Engineering Facility Planning cannot be completed until the information is received and reviewed. Also, if this project requires review by the State Hospital Review and Planning Council, such review may have to be delayed if the requested information is not received promptly. Accordingly, you are encouraged to submit the response at your earliest opportunity. In this regard, be advised that a single faxed response to this request does not constitute a full and complete response.

If you have any questions on the information being requested, please contact the individual identified on the enclosure.

Sincerely,

Robert Woods, R.A.
Bureau of Architectural & Engineering
Facility Planning

Project No.: 101115
Facility: North General Family Health Center

The following has been prepared by the Bureau of Architectural and Engineering Facility Planning:

Robert Woods, R.A.
Phone: 518-402-0904

The following information is required to complete the review of the above referenced application.

1. Please submit a Letter of Certification by an Architect or Engineer licensed to practice in New York State for existing buildings. (SEE ATTACHED EXAMPLE)



STATE OF NEW YORK
DEPARTMENT OF HEALTH

433 River Street, Suite 303 Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

James W. Glyne, Jr.
Executive Deputy Commissioner

May 12, 2010

Mr. Edward M. Fried
Institute for Family Health
16 East 16th Street
New York, New York 10003

Re: 101115 C
Institute for Family Health
(New York County)
Certify an extension at 1879 Madison
Avenue, New York formerly operated by
North General Hospital - "Safety Net"

Dear Mr. Fried:

The above referenced CON application, for which you have been designated the contact person, has been distributed to all reviewing units and, if operating, your local health systems agency for processing in accordance with 10 NYCRR 710. Please refer to the enclosed Important Notice for further information with respect to this process.

The mandatory review of your project for the criteria of public need, financial feasibility, and character and competence as required by the Public Health Law may determine that the proposal is unapprovable. Therefore, prior to entering into any contractual commitments or commencing construction, the final determination of the Director of the OHSM, or Public Health Council if establishment is involved, must be obtained.

Sincerely,

Jeffrey R. Rothman, M.S., M.B.A.
Director
Bureau of Project Management

Enclosure
JRR/AD/ss



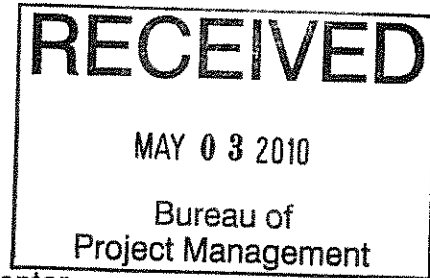
Cashline 13245

\$1,250.00



April 30, 2010

Project Management Group
Division of Health Facility Planning
Office of Health Systems Management
New York State Department of Health
433 River Street, 6th Floor
Troy, New York 12180-2299
Phone Number: 518-402-0911



(original)
8-copies

Re: CON Application, North General Family Health Center

Dear Project Management Group

We are hereby submitting for administrative review and approval, a Certificate of Need application entitled, "North General Family Health Center." The Institute for Family Health will be assuming operating responsibilities for the ambulatory clinics of North General Hospital (NGH) its offsite cancer specialty clinic known as The Ralph Lauren Cancer Care Center and The NGH School Based Health Center at PS #57.

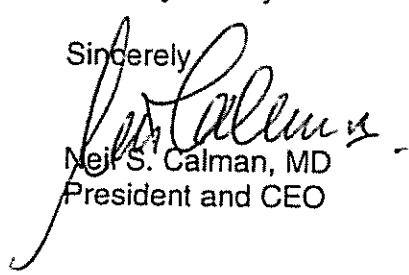
The Institute is a Diagnostic and Treatment Facility, a Federally Qualified Health Center and as such operates as a safety net health center.

This submission includes an original and eight copies. Within the original binder are the original signature pages and a check in the amount of \$1,250.

I can be reached at 917-613-0100 or ncalman@institute2000.org.

Thank you for your assistance in this matter.

Sincerely,


Neil S. Calman, MD
President and CEO

72184

Facility Id. 6668
Certificate No. 7002179R

State of New York
Department of Health
Office of Health Systems Management

OPERATING CERTIFICATE

Diagnostic and Treatment Center
North General Diagnostic and Treatment Center, Inc.
1879 Madison Avenue
New York, New York 10035

Effective Date: 10/31/2009
Expiration Date: 11/08/2012

Operator: North General Diagnostic and Treatment Center, Inc.
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28
of the Public Health Law for the service(s) specified:

Audiology O/P	Dental O/P	Family Planning O/P	Optometry O/P	Outpatient Surgery
Pediatric O/P	Physical Medicine and Rehabilitation O/P	Podiatry O/P	Prenatal O/P	Primary Medical Care O/P
Psychology O/P	Therapy - Occupational O/P	Therapy - Physical O/P	Therapy - Speech Language Pathology O/P	Therapy - Vocational Rehabilitation O/P
Well Child Care O/P				

Other Authorized Locations:


Diagnostic and Treatment Center
Extension Clinic

Addiction Treatment Center
1824 Madison Avenue
New York, New York 10035

School Based Diagnostic and
Treatment Center Extension Clinic

PS 57
176 East 115th Street
New York, New York 10029

20091130


Deputy Commissioner
Office of Health Systems Management

This certificate must be conspicuously displayed on the premises.

Facsimile
Commissioner

Facility Id. 4336
Certificate No. 7002137R

Applicant

**State of New York
Department of Health
Office of Health Systems Management**

OPERATING CERTIFICATE

Diagnostic and Treatment Center

**Institute for Urban Family Health/Sidney Hillman Center
16 East 16th Street
New York, New York 10003**

Effective Date: 03/10/2009
Expiration Date: NONE

Operator: Institute for Family Health, Inc.
Operator Class: Voluntary Not for Profit Corporation

**Has been granted this Operating Certificate pursuant to Article 28
of the Public Health Law for the service(s) specified:**

Audiology O/P	Certified Mental Health Services O/P	Clinic Part Time Services	Clinical Laboratory Service O/P	Family Planning O/P
Medical Social Services O/P	Physical Medicine and Rehabilitation O/P	Podiatry O/P	Prenatal O/P	Primary Medical Care O/P
Psychology O/P	Radiology - Diagnostic O/P	Therapy - Physical O/P	Well Child Care O/P	

Other Authorized Locations:

**Diagnostic and Treatment Center
Extension Clinic**

Amsterdam Center
690 Amsterdam Avenue
New York, New York 10025

East 13th Street Family Practice
113 East 13th St
New York, New York 10003

Family Practice Center of Ellenville
50 Shoprite Boulevard
Ellenville, New York 12428

Family Practice Center of Hyde Park
11 Crum Elbow Road
Hyde Park, New York 12538

Family Practice Center of Kingston
1 Family Practice Drive
Kingston, New York 12401

Family Practice Center of New Paltz
279 Main Street
New Paltz, New York 12561

Mount Hope Family Practice
130 West Tremont Avenue
Bronx, New York 10453

Parkchester Family Practice
1597 Unionport Road
Bronx, New York 10462

Specialty Care Center of Kingston
1 Foxhall Road
Kingston, New York 12401

Urban Horizons Family Practice
50-98 East 168th Street
Bronx, New York 10452

Walton Family Practice
1894 Walton Ave
Bronx, New York 10453

WeCARE Medical Assessment Unit
344 West 51 Street
New York, New York 10019

Westchester Avenue Center
1990 Westchester Avenue
Bronx, New York 10462

Jan W. ...

Deputy Commissioner

Office of Health Systems Management

20090513

This certificate must be conspicuously displayed on the premises.

Facsimile

Commissioner

Facility Id. 4336
Certificate No. 7002137R

Page 2 of 2

**State of New York
Department of Health
Office of Health Systems Management**

OPERATING CERTIFICATE

Diagnostic and Treatment Center

**Institute for Urban Family Health/Sidney Hillman Center
16 East 16th Street
New York, New York 10003**

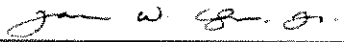
Effective Date: 03/10/2009
Expiration Date: NONE

Operator: Institute for Family Health, Inc.
Operator Class: Voluntary Not for Profit Corporation

Has been granted this Operating Certificate pursuant to Article 28
of the Public Health Law for the service(s) specified:

**School Based Diagnostic and
Treatment Center Extension Clinic**

Washington Irving High School
40 Irving Place
New York, New York 10003



Deputy Commissioner
Office of Health Systems Management

20090513

This certificate must be conspicuously displayed on the premises.

Facsimile

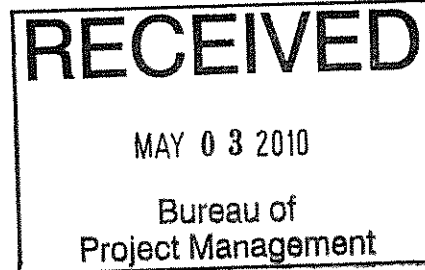
Commissioner

CashLine
13245
\$1,250



April 30, 2010

Project Management Group
Division of Health Facility Planning
Office of Health Systems Management
New York State Department of Health
433 River Street, 6th Floor
Troy, New York 12180-2299
Phone Number: 518-402-0911



1-original
& copies

Re: CON Application, North General Family Health Center

Dear Project Management Group

We are hereby submitting for administrative review and approval, a Certificate of Need application entitled, "North General Family Health Center." The Institute for Family Health will be assuming operating responsibilities for the ambulatory clinics of North General Hospital (NGH) its offsite cancer specialty clinic known as The Ralph Lauren Cancer Care Center and The NGH School Based Health Center at PS #57.

The Institute is a Diagnostic and Treatment Facility, a Federally Qualified Health Center and as such operates as a safety net health center.

This submission includes an original and eight copies. Within the original binder are the original signature pages and a check in the amount of \$1,250.

I can be reached at 917-613-0100 or ncalman@institute2000.org.

Thank you for your assistance in this matter.

Sincerely,

Neil S. Calman, MD
President and CEO

72184

12819



THE INSTITUTE FOR URBAN FAMILY HEALTH, INC.
16 EAST 16TH STREET
NEW YORK, NY 10003

DATE APRIL 30, 2010 ¹⁻²/₂₅

PAY TO THE ORDER OF

NEW YORK STATE DEPARTMENT OF HEALTH

\$ 1,750.00

TWELVE HUNDRED FIFTY ⁰⁰/₁₀₀

DOLLARS

CHASE The Chase Manhattan Bank
64 Fifth Avenue at 14th Street
New York, NY 10011

FOR CON APPLICATION
NORTH GENERAL FAMILY HEALTH CENTER

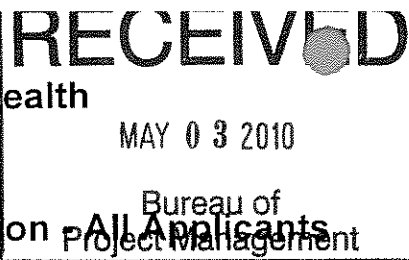
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Schedule 1 - Forms Required For All CON Applications

Contents:

- **Schedule 1 A - General Information.**
- **Schedule 1 B - Abbreviated Executive Summary**
- **Schedule 1 C - Other Facilities Owned or Controlled by the Applicant**

New York State Department of Health
Certificate of Need Application



Schedule 1A

Cash Line

13245
\$1,250

Schedule 1 A - General Information **All Applicants**

Main Site	MAIN SITE PFI	TYPE OF FACILITY	MAIN SITE NAME	
	4336	D & TC	The Institute for Family Health	
	STREET & NUMBER			
	16 East 16 th Street			
CITY		COUNTY	ZIP	
New York		New York	10003	

Project Site	PROJECT SITE PFI	TYPE OF FACILITY	PROJECT SITE NAME	
		D & TC	North General Family Health Center	
	STREET & NUMBER			
	1879 Madison Avenue			
CITY		COUNTY	ZIP	
New York		New York	10035	

Operator Information	OPERATING CERTIFICATE NUMBER	TYPE OF FACILITY	LEGAL ENTITY THAT WILL OPERATE OF THE FACILITY (or proposed operator)	
	7002137R	D & TC	The Institute for Family Health	
	STREET & NUMBER			
	16 East 16 th Street			
CITY		COUNTY	ZIP	
New York		New York	10003	

Title of Attachment:

Is the applicant an existing facility? If yes, attach a photocopy of the resolution of partners, corporate directors, or LLC managers, as the case may be, authorizing the project.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Board Resolution
Is the applicant part of an "established article 28* network" as defined in section 401.1(j) of 10 nycrr? If yes, attach a statement that identifies the network and describes the applicant's affiliation. Attach an organizational chart, if available.	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

Type of Application: Establishment Construction Administrative Limited

Total Project Cost: \$424,316.00

Amount of Application Fee (see Schedule 8) \$1,250.00

Acknowledgement And Attestation

I hereby certify, under penalty of perjury, that I am duly authorized to subscribe and submit this application on behalf of the applicant: The Institute for Family Health

I further certify that the information contained in this application and its accompanying schedules and attachments are accurate, true and complete in all material respects. I acknowledge and agree that this application will be processed in accordance with the provisions of articles 28, 36 and 40 of the public health law and/or article 7 of the social services law and implementing regulations, as the case may be.

SIGNATURE	DATE
PRINT OR TYPE NAME	TITLE
Neil S. Calman, MD	President & CEO

72184

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

Contacts:

Applicant should identify the operator's chief executive officer, or equivalent official, to whom all official correspondence from DOH about this application should be addressed

CHIEF EXECUTIVE	NAME AND TITLE OF CHIEF EXECUTIVE		
	Neil Calman, MD		
	STREET & NUMBER		
	16 East 16 th Street		
	CITY	STATE	ZIP
	New York	New York	10003
TELEPHONE	FAX NUMBER	E-MAIL ADDRESS	
212-633-0800 Ext. 1255	212-691-4610	ncalman@institute2000.org	

Applicant may designate a second person to whom copies of all official correspondence from DOH about this application should be addressed. (This could be the applicants attorney, or a consultant)

CONTACT INFORMATION	CONTACT PERSON'S COMPANY	NAME AND TITLE OF CONTACT PERSON	
	Institute for Family Health	Edward M. Fried, MA	
	STREET & NUMBER		
	16 East 16 th Street		
	CITY	STATE	ZIP
	New York	New York	10003
TELEPHONE	FAX NUMBER	E-MAIL ADDRESS	
212-633-0800 Ext. 1235	212-691-4610	efried@institute2000.org	

The applicant's lead attorney should be identified:

ATTORNEY	NAME		
	Helen PFister Manatt, Phelps & Phillips, LLP		
	STREET & NUMBER		
	7 Times Square		
	CITY	STATE	ZIP
	New York	New York	10036
TELEPHONE	FAX NUMBER	E-MAIL ADDRESS	
212-830-7277		HPfister@manatt.com	

If a consultant prepared the application, the consultant should be identified:

CONSULTANT	NAME		
	STREET & NUMBER		
	CITY	STATE	ZIP
TELEPHONE	FAX NUMBER	E-MAIL ADDRESS	

**New York State Department of Health
Certificate of Need Application**

Schedule 1A

The applicant's lead accountant should be identified:

ACCOUNTANT	NAME		
	Alan Woghin, CPA- Partner McGladrey & Pullen, LLP Healthcare Services Group		
	STREET & NUMBER		
	1185 Avenue of the Americas, 16 th Floor		
	CITY	STATE	ZIP
	New York	New York	10036
	TELEPHONE	FAX NUMBER	E-MAIL ADDRESS
212-372-1608		Alan.Woghin@rsmi.com	

Checklist of Schedules Included in This Application

Schedule Number	Schedule Name	Required	Included
1	General Information Forms	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2a	Personal Qualifying Information	<input type="checkbox"/>	<input type="checkbox"/>
2b	Personal Financial Statement	<input type="checkbox"/>	<input type="checkbox"/>
2c	Not-For-Profit Director's Statement	<input type="checkbox"/>	<input type="checkbox"/>
3b	Basic Legal Information and Documentation	<input type="checkbox"/>	<input type="checkbox"/>
4	Ownership Transfers Only- Additional Legal Information For All Articles	<input type="checkbox"/>	<input type="checkbox"/>
5	Working Capital Financing Plan (Not Applicable for Article 7)	<input type="checkbox"/>	<input type="checkbox"/>
6	Architectural Submission	<input type="checkbox"/>	<input type="checkbox"/>
7	Environmental Assessment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
8	Project & Subproject Cost Summary	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
9	Proposed Plan For Project Financing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
10	Space & Construction Cost Distribution	<input type="checkbox"/>	<input type="checkbox"/>
11	Movable Equipment	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
12a	Adult Care Facilities Program Information	<input type="checkbox"/>	<input type="checkbox"/>
12c	Architectural	<input type="checkbox"/>	<input type="checkbox"/>
12d	Project Financing or Lease	<input type="checkbox"/>	<input type="checkbox"/>
12e	Projected Start Up Operating Budget- (2 Years)	<input type="checkbox"/>	<input type="checkbox"/>
12f	Operating Budget- Adult Care Facility -Full Occupancy	<input type="checkbox"/>	<input type="checkbox"/>
13a	Assurances	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13b	Staffing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13c	Annual Operating Costs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
13d	Annual Operating Revenues	<input type="checkbox"/>	<input type="checkbox"/>
16a	Hospital Program Information	<input type="checkbox"/>	<input type="checkbox"/>
16b	Community Need	<input type="checkbox"/>	<input type="checkbox"/>
16c	Impact of CON Application - Hospital Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
16d	Hospital Outpatient Departments	<input type="checkbox"/>	<input type="checkbox"/>
16e	Hospital Utilization/Discharge and Patient Days	<input type="checkbox"/>	<input type="checkbox"/>
16f	Hospital Facility Access	<input type="checkbox"/>	<input type="checkbox"/>
17a	Diagnostic & Treatment Center Program Information	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17b	Community Need	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17c	Impact of CON Application - D&TCs Operating Certificate	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17d	D&TC Allocation of Operating Costs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
17e	D&TC Statement of Revenue	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
18a	Residential Health Care Facility (RHCF) Program Information	<input type="checkbox"/>	<input type="checkbox"/>
18b	Impact of CON Application - RHCF Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
18c	RHCF Space & Construction Cost Distribution	<input type="checkbox"/>	<input type="checkbox"/>
18d	RHCF Statement of Functional Expenses	<input type="checkbox"/>	<input type="checkbox"/>
18e	RHCF Analysis of Net Patient Revenue & Total Operating Revenue	<input type="checkbox"/>	<input type="checkbox"/>
19a	Adult Day Health Care Programs (ADHCP) Program Information	<input type="checkbox"/>	<input type="checkbox"/>
19b	ADHCP Services-Staffing/Program Information	<input type="checkbox"/>	<input type="checkbox"/>
20a	OMH Component (If Applicable)	<input type="checkbox"/>	<input type="checkbox"/>
21a	CHHA and LTHHCP Program Information	<input type="checkbox"/>	<input type="checkbox"/>
21b	Impact of CON Application - CHHA & LTHHCP Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
21d	CHHA/LTHHCP Operating Cost	<input type="checkbox"/>	<input type="checkbox"/>
21e	CHHA/LTHHCP Projected Operating Revenue	<input type="checkbox"/>	<input type="checkbox"/>
21f	CHHA/LTHHCP Projected Utilization By Payer Category	<input type="checkbox"/>	<input type="checkbox"/>
22a	Hospices Program Information	<input type="checkbox"/>	<input type="checkbox"/>
22b	Impact of CON Application - Hospices Operating Certificate	<input type="checkbox"/>	<input type="checkbox"/>
22d	Hospices Operating Costs	<input type="checkbox"/>	<input type="checkbox"/>
22e	Hospices Utilization and Revenue Estimates	<input type="checkbox"/>	<input type="checkbox"/>

Schedule 1 B - Abbreviated Executive Summary

Instructions:

In the space below, i.e., no more than one page, provide a succinct overview of your proposal. This may be done in bullet format. The purpose of the Abbreviated Executive Summary (AES) is to give the reviewer a conceptual understanding of the proposal. The AES should summarize the key elements of the proposed project. Details will be contained in the appropriate schedules of the application.

The Institute for Family Health, a federally qualified community health center network founded in 1983, seeks to add an extension clinic to its Article 28 D&TC license. The site is located at 1889 Madison Avenue in Harlem in New York County and is currently operated by North General Hospital, which has recognized the need to change its organizational structure in order to address ongoing financial difficulties.

Fully accredited by the Joint Commission on Accreditation of Health Care Organization and certified as a Level 3 Patient Centered Medical Home, the Institute operates 15 full-time health centers and nine part-time centers through its Section 330 community health center grant program. In late 2009, North General Hospital approached the Institute for assistance in operating its D&TC center and specialty care services. Since that time, clinical and administrative leaders of both organizations have met to review and coordinate all issues related to the transfer of the site. Both parties have agreed that the Institute will assume responsibility for primary medical care, mental health, dental, 12 hour/7 days a week walk-in services, school-based health services, and a number of specialty services including off-site oncology services. Pending approval, a transition date has been set for June 1, 2010.

The majority of patients served by North General Hospital are from the neighborhoods of Central and East Harlem, both of which are designated as Medically Underserved Areas and Health Professional Shortage Areas. This population has a critical need for a medical home. More than one quarter of community residents report not having a doctor. The service area's population primarily consists of African American and Hispanic residents who face significant health problems, including high rates of HIV/AIDS, asthma, diabetes, obesity, and depression. In addition, one third of the population live at or below 100 percent of the federal poverty level and roughly two thirds are below 200 percent, or approximately 170,000 individuals.

The services and activities that the Institute proposes in this application will specifically address the well-documented health care needs and disparities affecting this patient population. The Institute – which accepts all patients regardless of income, age, sex, or race – has a strong track record of success in operating high-quality clinical programs based on the family practice model of care. The Institute will apply this expertise to its services at the North General site. The site also will be incorporated into the Institute's federal scope of service, designating it as a federally qualified health center.

Schedule 1 C - Other Facilities Owned or Controlled by the Applicant

(Establishment Applications only)

Does the applicant or any related entity (parent, member or subsidiary corporation) operate or control any of the following in New York State?

FACILITY TYPE - NEW YORK STATE	FACILITY TYPE CODE	
Hospital	HOS	Yes <input type="checkbox"/> No <input type="checkbox"/>
Nursing Home	NH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Diagnostic and Treatment Center	DTC	Yes <input type="checkbox"/> No <input type="checkbox"/>
Licensed Home Care Services Agency	LHH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Certified Home Health Agency	CHH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Hospice	HSP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Adult Home	ADH	Yes <input type="checkbox"/> No <input type="checkbox"/>
Assisted Living Program	ALP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Long Term Home Health Care Program	LTC	Yes <input type="checkbox"/> No <input type="checkbox"/>
Enriched Housing Program	EHP	Yes <input type="checkbox"/> No <input type="checkbox"/>
Health Maintenance Organization	HMO	Yes <input type="checkbox"/> No <input type="checkbox"/>
Other	OTH	Yes <input type="checkbox"/> No <input type="checkbox"/>

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Schedule 1C

For each facility or agency referenced above, enter the name, the PFI and facility type in the chart below.

	FACILITY NAME:	PFI	FACILITY TYPE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			

**New York State Department of Health
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Schedule 1C

In addition to the information provided on the above chart, provide a complete list of all health care, adult care, behavioral, or mental health facilities, programs or agencies located outside New York State that are affiliated with the applicant corporation, as well as with parent, member and subsidiary corporations. For each health care entity identified, provide the full name, address, and type of services provided. In conjunction with this list, provide documentation from the regulatory agency in the state(s) where affiliations are noted, reflecting that the facilities/programs/agencies have operated in substantial compliance with applicable codes, rules and regulations for the past ten years (or for the period of the affiliation, whichever is shorter). To assist you in securing this information, a recommended form and a sample letter of inquiry are provided in Schedule 2 D.

Please list the facilities outside of New York State that are owned or controlled by the applicant:

	FACILITY NAME AND ADDRESS:	Services provided:	STATE/ COUNTRY	FACILITY TYPE
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Schedule 5 - CON Form Regarding Working Capital Plan

Contents:

- **Schedule 5 - Working Capital Plan**

Working Capital Financing Plan

1. Working Capital Financing Plan and Pro Forma Balance Sheet:

This section should be completed in conjunction with the monthly Cash Flow. The general guidelines for working capital requirements are two months of first year expenses for changes of ownership and two months' of third year expenses for construction projects. Any deviation from these guidelines must be supported by the monthly cash flow analysis. If working capital is required for the project, all sources of working capital must be indicated clearly. Borrowed funds are limited to 50% of total working capital requirements. If borrowed funds are a source of working capital, please summarize the terms below, and attach a letter of interest from the intended source of funds, to include an estimate of the principal, term, interest rate and payout period being considered. Also, describe and document the source(s) of working capital equity.

List Titles of Attachments related to Borrowed Funds	List Filenames of Attachments
Example: <i>First borrowed fund source</i>	Example: <i>first_bor_fund.pdf</i>

In the section below, briefly describe and document the source(s) of working capital equity

- | |
|---|
| <p>1. North General Family Health Center- The implementation of this program is dependent upon the approval of the HEAL Grant funding from New York State Department of Health.
 2. Ralph Lauren Cancer Care Center and Prevention- Working Capital Funding is committed from Polo Ralph Lauren Corporation and Memorial Sloan-Kettering Cancer Center.</p> |
|---|

2. Pro Forma Balance Sheet

This section should be completed for all new establishment and change in ownership applications. On a separate attachment identified below, provide a pro forma (opening day) balance sheet. If the operation and real estate are to be owned by separate entities,

provide a pro forma balance sheet for each entity. Fully identify all assumptions used in preparation of the pro forma balance sheet. If the pro forma balance sheet(s) is submitted in conjunction with a change in ownership application, on a line-by-line basis, provide a comparison between the submitted pro forma balance sheet(s), the most recently available facility certified financial statements and the transfer agreement. Fully explain and document all assumptions.

List Titles of Attachments Related to Pro Forma Balance Sheets	List Filenames of Attachments
<i>Example: Attachment to operational balance sheet</i>	<i>Example: Operational_bal_sheet.pdf</i>

Schedule 7 - CON Forms Regarding Environmental issues

Contents:

- o Schedule 7 - Environmental Assessment

Environmental Assessment

Part I.

The following questions help determine whether the project is "significant" from an environmental standpoint.

1.	If this application involves establishment, will it involve more than a change of name or ownership only, or a transfer of stock or partnership or membership interests only, or the conversion of existing beds to the same or lesser number of a different level of care beds?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
2.	Does this plan involve construction and change land use or density?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
3.	Does this plan involve construction and have a permanent effect on the environment if temporary land use is involved?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
4.	Does this plan involve construction and require work related to the disposition of asbestos?	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>

Part II.

If any question in Part I is answered "yes" the project may be significant and Part II must be completed. If all questions in Part II are answered "no" it is likely that the project is not significant.

1.	Does the project involve physical alteration of ten acres or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
2.	If an expansion of an existing facility, is the area physically altered by the facility expanding by more than 50% and is the total existing and proposed altered area ten acres or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
3.	Will the project involve use of ground or surface water or discharge of wastewater to ground or surface water in excess of 2,000,000 gallons per day?	yes <input type="checkbox"/> no <input type="checkbox"/>
4.	If an expansion of an existing facility, will use of ground or surface water or discharge of wastewater by the facility increase by more than 50% and exceed 2,000,000 gallons per day?	yes <input type="checkbox"/> no <input type="checkbox"/>
5.	Will the project involve parking for 1,000 vehicles or more?	yes <input type="checkbox"/> no <input type="checkbox"/>
6.	If an expansion of an existing facility, will the project involve a 50% or greater increase in parking spaces and will total parking exceed 1000 vehicles?	yes <input type="checkbox"/> no <input type="checkbox"/>
7.	In a city, town, or village of 150,000 population or fewer, will the project entail more than 100,000 square feet of gross floor area?	yes <input type="checkbox"/> no <input type="checkbox"/>
8.	If an expansion of an existing facility in a city, town, or village of 150,000 population or fewer, will the project expand existing floor space by more than 50% so that gross floor area exceeds 100,000 square feet?	yes <input type="checkbox"/> no <input type="checkbox"/>
9.	If an expansion of an existing facility in a city, town, or village of more than 150,000 population, will the project entail more than 240,000 square feet of gross floor area?	yes <input type="checkbox"/> no <input type="checkbox"/>

10.	If an expansion of an existing facility in a city, town, or village of more than 150,000 population, will the project expand existing floor space by more than 50% so that gross floor area exceeds 240,000 square feet?	yes <input type="checkbox"/> no <input type="checkbox"/>
11.	In a locality without any zoning regulation about height, will the project contain any structure exceeding 100 feet above the original ground area?	yes <input type="checkbox"/> no <input type="checkbox"/>
12.	Is the project wholly or partially within an agricultural district certified pursuant to Agriculture and Markets Law Article 25, Section 303?	yes <input type="checkbox"/> no <input type="checkbox"/>
13.	Will the project significantly affect drainage flow on adjacent sites?	yes <input type="checkbox"/> no <input type="checkbox"/>
14.	Will the project affect any threatened or endangered plants or animal species?	yes <input type="checkbox"/> no <input type="checkbox"/>
15.	Will the project result in a major adverse effect on air quality?	yes <input type="checkbox"/> no <input type="checkbox"/>
16.	Will the project have a major effect on visual character of the community or scenic views or vistas known to be important to the community?	yes <input type="checkbox"/> no <input type="checkbox"/>
17.	Will the project result in major traffic problems or have a major effect on existing transportation systems?	yes <input type="checkbox"/> no <input type="checkbox"/>
18.	Will the project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbance as a result of the project's operation?	yes <input type="checkbox"/> no <input type="checkbox"/>
19.	Will the project have any adverse impact on health or safety?	yes <input type="checkbox"/> no <input type="checkbox"/>
20.	Will the project affect the existing community by directly causing a growth in permanent population of more than five percent over a one-year period or have a major negative effect on the character of the community or neighborhood?	yes <input type="checkbox"/> no <input type="checkbox"/>
21.	Is the project wholly or partially within, or is it contiguous to any facility or site listed on the National Register of Historic Places, or any historic building, structure, or site, or prehistoric site, that has been proposed by the Committee on the Registers for consideration by the New York State Board on Historic Preservation for recommendation to the State Historic Officer for nomination for inclusion in said National Register?	yes <input type="checkbox"/> no <input type="checkbox"/>
22.	Will the project cause a beneficial or adverse effect on property listed on the National or State Register of Historic Places or on property which is determined to be eligible for listing on the State Register of Historic Places by the Commissioner of Parks, Recreation, and Historic Preservation?	yes <input type="checkbox"/> no <input type="checkbox"/>
23.	Is this project within the Coastal Zone as defined in Executive Law, Article 42?	yes <input type="checkbox"/> no <input type="checkbox"/>

Part III.

Must be completed if any question on Part II was answered "Yes".

1.	List all other state or local agencies involved in approval of the project:	
2.	Has any other agency made an environmental review of this project? If so, give name	yes <input type="checkbox"/> no <input type="checkbox"/>
3.	Is there a public controversy concerning environmental aspects of this project? If yes, briefly describe the controversy in the space below.	yes <input type="checkbox"/> no <input type="checkbox"/>

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Schedule 8B - Total Project Cost - For Projects without Subprojects.

For Article 28, 36, and 40 Establishment & Construction Requiring Full, Administrative or Limited Review
 For Limited Review, escalation amounts may be entered as "0".

Constants:	Value	Comments:
Design Contingency - New Construction	0.00%	Normally 10%
Construction Contingency - New Construction	0.00%	Normally 5%
Design Contingency - Renovation Work	0.00%	Normally 10%
Construction Contingency - Renovation Work	0.00%	Normally 10%
Construction Start Date:		as mm/dd/yyyy
Midpoint of Construction Date		as mm/dd/yyyy
Completion of Construction Date		as mm/dd/yyyy
Year used to compute Current Dollars:		

Subject of attachment:	Attachment Number	Filename of attachment - PDF
For new construction and addition, at the schematic stage the design contingency will be normally be 10% and the construction contingency will be 5%. If your percentages are otherwise, please explain in an attachment		
For renovation, the design contingency will normally be 10% and the construction contingency will be 10%. If your percentages are otherwise, please explain in an attachment		

New York State Department of Health
 Certificate of Need Application
 Schedule 8B - Total Project Cost - For Projects without Subprojects.

	A	B	C
Item	Project Cost in Current Dollars	Escalation amount to Mid-point of Construction	Estimated Project Costs
Source:	Schedule 10 Col. 7	Computed by applicant	(A + B)
1.1 Land Acquisition	\$0		\$0
1.2 Building Acquisition	\$0		\$0
2.1 New Construction	\$0	\$0	\$0
2.2 Renovation & Demolition	\$0	\$0	\$0
2.3 Site Development	\$0	\$0	\$0
2.4 Temporary Utilities	\$0	\$0	\$0
2.5 Asbestos Abatement or	\$0	\$0	\$0
3.1 Design Contingency	\$0	\$0	\$0
3.2 Construction Contingency	\$0	\$0	\$0
4.1 Fixed Equipment (NIC)	\$0	\$0	\$0
4.2 Planning Consultant Fees	\$0	\$0	\$0
4.3 Architect/Engineering Fees	\$0	\$0	\$0
4.4 Construction Manager Fees	\$0	\$0	\$0
4.5 Other Fees (Consultant, etc.)	\$0	\$0	\$0
Subtotal (Total 1.1 thru 4.5)	\$0	\$0	\$0
5.1 Movable Equipment (from Sched 11)	\$334,614	\$0	\$334,614
5.2 Telecommunications	\$89,702	\$0	\$89,702
6. Total Basic Cost of Construction (total 1.1 thru 5)	\$424,316	\$0	\$424,316
7.1 Financing Costs (Points etc)	\$0		\$0
7.2 Interim Interest Expense: \$ <input type="text"/> At <input type="text"/> % for <input type="text"/> months	\$0		\$0
8. Total Project Cost: w/o CON fees Total 6 thru 7.2	\$424,316	\$0	\$424,316
Application fees:			
9.1 Application Fee \$1,250. Article 28 only	\$1,250		\$1,250
9.2 Additional Fee for projects with Construction. (.0045 x line 8) Article 28 Only	\$0		\$0
10 Total Project Cost with fees	\$425,566	\$0	\$425,566

Schedule 9 - CON Forms Regarding Project Financing

Contents:

- **Schedule 9 - Proposed Plan for Project Financing.**

Schedule 9 Proposed Plan for Project Financing:

I. Summary of Proposed Financial plan:

Check all that apply and fill in corresponding amounts.

	Type	Amount
<input type="checkbox"/>	A. Lease	
<input type="checkbox"/>	B. Cash	
<input type="checkbox"/>	C. Land	
<input checked="" type="checkbox"/>	D. Other	\$425,566
<input type="checkbox"/>	E. Mortgage, Notes, or Bonds	
<input type="checkbox"/>	F. Refinancing	
<input type="checkbox"/>	Total Mortgage/Notes/Bonds plus Refinancing: (E + F)	
<input checked="" type="checkbox"/>	Total Project Financing (Sum A to F)	\$425,566

II. Details

A. Leases

	Not Applicable	Title of attachment
1. List each lease with corresponding cost as if purchased each leased item. Breakdown each lease by total project cost and subproject costs, if applicable	<input checked="" type="checkbox"/>	
2. Attach a copy of the proposed lease(s).	<input type="checkbox"/>	North General Hospital & IFH Lease and Ralph Lauren Cancer Center Lease
3. Submit an affidavit indicating any business or family relationships between principals of the landlord and tenant	<input checked="" type="checkbox"/>	
4. If applicable, provide a copy of the lease assignment agreement and the Landlord's consent to the proposed lease assignment	<input checked="" type="checkbox"/>	
5. If applicable, identify separately the total square footage to be occupied by the Article 28 facility and the total square footage of the building	<input type="checkbox"/>	Square Footage
6. Attach two letters from independent realtors verifying square footage rate.	<input type="checkbox"/>	Realtor Letter (2)
7. For all capital leases as defined by FASB Statement No. 13, "Accounting for Leases", provide the net present value of the monthly, quarterly or annual lease payments.	<input checked="" type="checkbox"/>	

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B. Cash - Not required for limited review

Type	Amount
Accumulated Funds	0
Sale of Existing Assets	0
Gifts (fundraising program)	0
Government Grants	\$7,500,000
Other	\$2,000,000
TOTAL CASH	\$9,500,000

	Not Applicable	Title of attachment
1. Provide a breakdown of the sources of cash. See sample table above.	<input type="checkbox"/>	Sources of Cash
2. Attach a copy of the latest certified financial statement and interim monthly or quarterly financial reports to cover the balance of time to date.	<input type="checkbox"/>	Financial Report
3. If amounts are listed in "Accumulated Funds" provide cross-reference to certified financial statement or Schedule 2b, if applicable.	<input checked="" type="checkbox"/>	
4. Attach a full and complete description of the assets to be sold, if applicable.	<input checked="" type="checkbox"/>	
5. If amounts are listed in "Gifts (fundraising program)": <ul style="list-style-type: none"> Provide a breakdown of total amount expected, amount already raised, and any terms and conditions affixed to pledges. If a professional fundraiser has been engaged, submit fundraiser's contract and fundraising plan. Provide a history of recent fund drives, including amount pledged and amount collected. 	<input checked="" type="checkbox"/>	
6. If amounts are listed in "Government Grants": <ul style="list-style-type: none"> List the grant programs which are to provide the funds with corresponding amounts. Include the date the application was submitted. Provide documentation of eligibility for the funds. Attach the name and telephone number of the contact person at the awarding Agency(ies). 	<input type="checkbox"/>	Government Grants
7. If amounts are listed in "Other" attach a description of the source of financial support and documentation of its availability	<input checked="" type="checkbox"/>	
8. Current Department policy requires a minimum equity contribution of 10% of total project cost (Schedule 8b line 10).	<input checked="" type="checkbox"/>	

C. Mortgage, Notes, or Bonds - Not required for limited review

1. Provide a breakdown of the terms of the mortgage. See sample table below.

	Total Project	Units
Interest	N/A	%
Term	N/A	Years
Payout Period	N/A	Years

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Principal	N/A	\$
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	Not Applicable	Title of attachment
2. Attach a copy of a letter of interest from the intended source of permanent financing that indicates principal, interest, term, and payout period.	<input checked="" type="checkbox"/>	
3. If New York State Dormitory Authority (DASNY) financing, then attach a copy of a letter from a mortgage banker.	<input checked="" type="checkbox"/>	
4. If the financing of this project becomes part of a larger overall financing, then a new business plan inclusive of a feasibility package for the overall financing will be required for DOH review prior to proceeding with the combined financing.	<input checked="" type="checkbox"/>	

D. Land: Not required for limited review

1. Provide details for the land including but not limited to; appraised value, historical cost, and purchase price. See sample table below.

	Total Project
Appraised Value	N/A
Historical Cost	N/A
Purchase Price	N/A
Other	N/A

	Not Applicable	Title of attachment
2. If amounts are listed in "Other", attach documentation and a description as applicable.	<input checked="" type="checkbox"/>	
3. Attach a copy of the Appraisal. Supply the appraised date and the name of the appraiser.	<input checked="" type="checkbox"/>	
4. Submit a copy of the proposed purchase/option agreement.	<input checked="" type="checkbox"/>	
5. Provide an affidavit indicating any and all relationships between seller and the proposed operator/owner.	<input checked="" type="checkbox"/>	

E. Other - Not required for limited review

1. Provide listing and breakdown of other financing mechanisms.

	Total Project
Notes	N/A
Stock	N/A
Other	N/A

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	Not Applicable	Title of attachment
2. Attach documentation and a description of the method of financing.	<input checked="" type="checkbox"/>	

F. Refinancing - Not required for limited Review

	Not Applicable	Title of attachment
1. Provide a breakdown of the terms of the refinancing, including principal, interest rate, and term remaining.	<input checked="" type="checkbox"/>	
2. Attach a description of the mortgage to be refinanced. Provide full details of the existing debt and refinancing plan inclusive of original and current amount, term, assumption date, and refinancing fees. The term of the debt to be refunded may not exceed the remaining average useful life of originally financed assets. If existing mortgage debt will not be refinanced, provide documentation of consent from existing lien holders of the proposed financing plan.	<input checked="" type="checkbox"/>	

Schedule 9 - CON Forms Regarding Project Financing

Contents:

- **Schedule 9 - Proposed Plan for Project Financing.**

**New York State Department of Health
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Schedule 9 Proposed Plan for Project Financing:

I. Summary of Proposed Financial plan:

Check all that apply and fill in corresponding amounts.

	Type	Amount
<input type="checkbox"/>	A. Lease	
<input type="checkbox"/>	B. Cash	
<input type="checkbox"/>	C. Land	
<input checked="" type="checkbox"/>	D. Other	\$425,566
<input type="checkbox"/>	E. Mortgage, Notes, or Bonds	
<input type="checkbox"/>	F. Refinancing	
<input type="checkbox"/>	Total Mortgage/Notes/Bonds plus Refinancing: (E + F)	
<input checked="" type="checkbox"/>	Total Project Financing (Sum A to F)	\$425,566

II. Details

A. Leases

	Not Applicable	Title of attachment
1. List each lease with corresponding cost as if purchased each leased item. Breakdown each lease by total project cost and subproject costs, if applicable	<input checked="" type="checkbox"/>	
2. Attach a copy of the proposed lease(s).	<input type="checkbox"/>	North General Hospital & IFH Lease and Ralph Lauren Cancer Center Lease
3. Submit an affidavit indicating any business or family relationships between principals of the landlord and tenant	<input checked="" type="checkbox"/>	
4. If applicable, provide a copy of the lease assignment agreement and the Landlord's consent to the proposed lease assignment	<input checked="" type="checkbox"/>	
5. If applicable, identify separately the total square footage to be occupied by the Article 28 facility and the total square footage of the building	<input type="checkbox"/>	Square Footage
6. Attach two letters from independent realtors verifying square footage rate.	<input type="checkbox"/>	Realtor Letter (2)
7. For all capital leases as defined by FASB Statement No. 13, "Accounting for Leases"; provide the net present value of the monthly, quarterly or annual lease payments.	<input checked="" type="checkbox"/>	

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B. Cash - Not required for limited review

Type	Amount
Accumulated Funds	0
Sale of Existing Assets	0
Gifts (fundraising program)	0
Government Grants	\$7,500,000
Other	\$2,000,000
TOTAL CASH	\$9,500,000

	Not Applicable	Title of attachment
1. Provide a breakdown of the sources of cash. See sample table above.	<input type="checkbox"/>	Sources of Cash
2. Attach a copy of the latest certified financial statement and interim monthly or quarterly financial reports to cover the balance of time to date.	<input type="checkbox"/>	Financial Report
3. If amounts are listed in "Accumulated Funds" provide cross-reference to certified financial statement or Schedule 2b, if applicable.	<input checked="" type="checkbox"/>	
4. Attach a full and complete description of the assets to be sold, if applicable.	<input checked="" type="checkbox"/>	
5. If amounts are listed in "Gifts (fundraising program)": <ul style="list-style-type: none"> Provide a breakdown of total amount expected, amount already raised, and any terms and conditions affixed to pledges. If a professional fundraiser has been engaged, submit fundraiser's contract and fundraising plan. Provide a history of recent fund drives, including amount pledged and amount collected 	<input checked="" type="checkbox"/>	
6. If amounts are listed in "Government Grants": <ul style="list-style-type: none"> List the grant programs which are to provide the funds with corresponding amounts. Include the date the application was submitted. Provide documentation of eligibility for the funds. Attach the name and telephone number of the contact person at the awarding Agency(ies). 	<input type="checkbox"/>	Government Grants
7. If amounts are listed in "Other" attach a description of the source of financial support and documentation of its availability	<input checked="" type="checkbox"/>	
8. Current Department policy requires a minimum equity contribution of 10% of total project cost (Schedule 8b line 10).	<input checked="" type="checkbox"/>	

C. Mortgage, Notes, or Bonds - Not required for limited review

1. Provide a breakdown of the terms of the mortgage. See sample table below.

	Total Project	Units
Interest	N/A	%
Term	N/A	Years
Payout Period	N/A	Years

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Schedule 9

Principal	N/A	\$
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	Not Applicable	Title of attachment
2. Attach a copy of a letter of interest from the intended source of permanent financing that indicates principal, interest, term, and payout period.	<input checked="" type="checkbox"/>	
3. If New York State Dormitory Authority (DASNY) financing, then attach a copy of a letter from a mortgage banker.	<input checked="" type="checkbox"/>	
4. If the financing of this project becomes part of a larger overall financing, then a new business plan inclusive of a feasibility package for the overall financing will be required for DOH review prior to proceeding with the combined financing.	<input checked="" type="checkbox"/>	

D. Land: Not required for limited review

1. Provide details for the land including but not limited to; appraised value, historical cost, and purchase price. See sample table below.

	Total Project
Appraised Value	N/A
Historical Cost	N/A
Purchase Price	N/A
Other	N/A

	Not Applicable	Title of attachment
2. If amounts are listed in "Other", attach documentation and a description as applicable.	<input checked="" type="checkbox"/>	
3. Attach a copy of the Appraisal. Supply the appraised date and the name of the appraiser.	<input checked="" type="checkbox"/>	
4. Submit a copy of the proposed purchase/option agreement.	<input checked="" type="checkbox"/>	
5. Provide an affidavit indicating any and all relationships between seller and the proposed operator/owner.	<input checked="" type="checkbox"/>	

E. Other - Not required for limited review

1. Provide listing and breakdown of other financing mechanisms.

	Total Project
Notes	N/A
Stock	N/A
Other	N/A

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Schedule 9

	Not Applicable	Title of attachment
2. Attach documentation and a description of the method of financing.	<input checked="" type="checkbox"/>	

F. Refinancing - Not required for limited Review

	Not Applicable	Title of attachment
1. Provide a breakdown of the terms of the refinancing, including principal, interest rate, and term remaining.	<input checked="" type="checkbox"/>	
2. Attach a description of the mortgage to be refinanced. Provide full details of the existing debt and refinancing plan inclusive of original and current amount, term, assumption date, and refinancing fees. The term of the debt to be refunded may not exceed the remaining average useful life of originally financed assets. If existing mortgage debt will not be refinanced, provide documentation of consent from existing lien holders of the proposed financing plan.	<input checked="" type="checkbox"/>	

Schedule 9

List of Attachments

9-II-A-2a	North General Hospital & IFH Lease
9-II-A-2b	Ralph Lauren Cancer Center Lease
9-II-A-5	Square Footage
9-II-A-6	Realtor Letters (2)
9-II-B-1	Sources of Cash
9-II-B-2	Audited Financial Statements
9-II-B-6	Government Grants

**NORTH GENERAL HOSPITAL,
Landlord**

TO

**INSTITUTE FOR FAMILY HEALTH, INC.,
Tenant**

LEASE

**Premises: Portion of North General Hospital, as more particularly described herein,
located at 1879 Madison Avenue, New York, New York**

June 1, 2010

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EXHIBITS:

EXHIBIT A – LEGAL DESCRIPTION OF LAND

EXHIBIT B – DEMISED PREMISES

EXHIBIT C – TERMS OF GROUND LEASE OF ANNEX BUILDING

EXHIBIT D – TENANT ELECTRICAL EQUIPMENT

This Index is included only as a matter of convenience of reference and shall not be deemed or construed in any way to define or limit the scope of the following lease or the intent of any provision thereof.

LEASE

LEASE (this "**Lease**"), dated as of June 1, 2010 (the "**Effective Date**"), between North General Hospital, a New York not-for-profit corporation, having an office address at 1879 Madison Avenue, New York, New York 10035, Attn: _____ (hereinafter referred to as "**Landlord**") and Institute for Family Health, Inc., a New York not-for-profit corporation, having an office at _____ (hereinafter referred to as "**Tenant**").

WITNESSETH:

ARTICLE 1 Demise, Premises, Term, Rents

1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the premises hereinafter described in the building located at 1879 Madison Avenue, commonly known as North General Hospital, in the Borough of Manhattan, City, County and State of New York (hereinafter referred to as the "**Building**"), on the parcel of land more particularly described in Exhibit A attached hereto (hereinafter referred to as the "**Land**"), together with the non-exclusive right to use the common areas of the Building, for the Term (as herein defined) hereinafter stated, for the Rents (as defined herein) hereinafter reserved and upon and subject to the conditions (including limitations, restrictions and reservations) and covenants hereinafter provided. Each party hereby expressly covenants and agrees to observe and perform all of the conditions and covenants herein contained on its part to be observed and performed.

1.02 The premises (the "**Demised Premises**") hereby leased to Tenant consist of approximately 27,118 rentable square feet, as more particularly shown in Exhibit B attached hereto. The Demised Premises includes all fixtures and equipment which at the commencement, or during the Term, of this Lease are thereto attached (except items not deemed to be included therein and removable by Tenant as provided in Article 13).

1.03 The term of this Lease (hereinafter referred to as the "**Term**"), shall commence on the Effective Date, and shall end at noon on the day prior to the second year anniversary of the Effective Date (hereinafter referred to as the "**Expiration Date**") or on such earlier date on which the Term may expire or be cancelled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law.

1.04 The "**Rent or Rents**" reserved under this Lease, for the Term thereof, shall be and consist of:

(a) Tenant will pay annual rent "**Fixed Rent**" for each Lease Year (as hereinafter defined) commencing on the Effective Date, as follows, including any Fixed Rent for any Renewal Periods (as herein defined):

(i) Lease Year 1 \$813,540.00 (\$67,795.00 per month)

(ii) Lease Year 2: \$837,946.20 (\$69,828.85 per month)

- (iii) Lease Year 3 (option year): \$863,084.59 (\$71,923.72 per month)
- (iv) Lease Year 4: \$ _____
(\$ _____ per month)
- (v) Lease Year 5: \$ _____
(\$ _____ per month)
- (vi) Lease Year 6: \$ _____
(\$ _____ per month)
- (vii) Lease Year 7: \$ _____
(\$ _____ per month)
- (viii) Lease Year 8 : \$ _____
(\$ _____ per month)

which shall be payable without offset or abatement in equal monthly installments in advance on the first day of each and every calendar month during the Term of this Lease; and

(b) **“Additional Rent”** consisting of all such other sums of money as shall become due from and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Fixed Rent);

all to be paid to Landlord at its office, or such other place, or to such agent and at such place, as Landlord may designate by written notice to Tenant, in lawful money of the United States of America.

1.05 Tenant shall pay the Fixed Rent and Additional Rent herein reserved promptly as and when the same shall become due and payable, without demand therefor and without any abatement, deduction or setoff, subject to any grace period provided hereunder.

1.06 If the date on which Fixed Rent is first due hereunder occurs on a day other than the first day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month and paid on such first due date. Tenant shall pay the first month Fixed Rent on the Effective Date. If the Term shall end on a date other than the last day of a calendar month, the Fixed Rent for such calendar month shall be prorated for such month.

1.07 Provided that Tenant is not in default under the terms of this Lease after notice and the expiration of the applicable cure period, on the date Tenant delivers a Renewal Notice (as hereinafter defined) or at any time thereafter through the commencement date of a Renewal Term, Tenant shall have one (1) option (**“Renewal Option”**) to renew this Lease each for one (1) additional five (5) year term (**“Renewal Term”**) at the Rents and upon the other terms set forth herein by delivering notice to Landlord (each a **“Renewal Notice”**) exercising the Renewal Option no later than ninety (90) days prior to the expiration of the then current Term. In the event that Tenant shall fail to deliver the Renewal Notice in accordance with the provisions hereof, Tenant shall be deemed to have forever waived its right to exercise the

Renewal Option and Tenant shall have no further right to renew or extend the Term of this Lease. Time shall be of the essence with respect to Tenant's exercise of the Renewal Option and delivery of a Renewal Notice. Tenant shall have no right to renew or extend this Lease beyond the expiration of the Renewal Term.

1.08 Notwithstanding anything to the contrary contained in this Lease, Tenant's right to exercise the Renewal Option shall automatically terminate and become null, void and of no force and effect upon the earlier to occur of (a) the expiration or termination of this Lease by Landlord or pursuant to law, (b) the termination or surrender of Tenant's right to possession of the Demised Premises or any portion thereof, (c) the failure of Tenant to timely and properly exercise the Renewal Option, (d) failure of Tenant to enter into a ground lease for the annex building located at 1824 Madison Avenue, New York, New York (the "**Ground Lease**") in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (e) if Tenant fails to complete the renovations to the annex building (including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (f) a Tenant default under the terms of the Ground Lease. Further, if Tenant fails to take occupancy of the annex building for any reason, upon termination or the expiration of this Lease, Tenant, and Tenant affiliates, shall not operate its business within one (1) mile of the Demised Premises; this provisions shall survive the termination or expiration of this Lease.

1.09 This Lease and the obligations of both parties hereunder, are conditioned upon the written consent of Dormitory Authority of the State of New York (the "**Consent**"). This Lease and any modifications or amendments hereof shall not take effect and be binding upon Landlord and Tenant until Landlord delivers to Tenant an original Consent executed by Dormitory Authority of the State of New York. Landlord and Tenant shall submit all reasonably requested document to Dormitory Authority of the State of New York in connection with the request for Consent. In the event that Landlord receives written or verbal advice from Dormitory Authority of the State of New York that Dormitory Authority of the State of New York's consent to this Lease will not be granted, Landlord shall have the right to terminate this Lease by written notice delivered to Tenant, in which event, this Lease shall be null, void and of no further force or effect.

1.10 As used in this Lease, the Term "**Lease Year**" shall mean each successive period of twelve (12) consecutive months during the Term of this Lease, with the first Lease Year (including any partial month) commencing on the Effective Date.

1.11 Tenant acknowledges that it has no rights to any development rights, "air rights" or comparable rights appurtenant to the Land and Building, and consents, without further consideration, to any utilization or transfer of such rights by Landlord and agrees to promptly execute and deliver any instruments which may be reasonably requested by Landlord, including instruments merging zoning lots, evidencing such acknowledgment and consent. The provisions of this Section 1.11 shall be deemed to be and shall be construed as an express waiver by Tenant of any interest Tenant may have as a "party in interest" (as such quoted term is defined in Section 12-10 of the Zoning Resolution of the City of New York) in the Land and Building. The terms of this Section shall be self operative and shall serve as a waiver of any "party in interest" rights Tenant pursuant to the terms of the Zoning Resolution of the City of New York.

ARTICLE 2

Use

2.01 [PG TO SUPPLY DEFINITION OF FQHC] Tenant shall use and occupy the Demised Premises for ambulatory services such as, but not limited to, physician's services (including diagnosis, therapy, and consultation, including if the physician examines the patient in person or is able to visualize some aspect of the patient's condition without the interposition of a third person's judgment), services and supplies incident to a physician's services, services of nurse practitioners, physician assistants (including certified nurse midwives), services and supplies incident to the services of nurse practitioners and physician assistants (including services furnished by nurse midwives), visiting nurse services to the homebound, clinical psychologist and clinical social worker services, services of registered dietitians or nutritional professionals for diabetes training services and medical nutrition therapy, as well as drugs which are otherwise covered but are furnished by, and incident to, services of physicians and non physician practitioners of Tenant and related administrative purposes .

2.02 If any governmental license or permit, other than a certificate of occupancy, shall be required for the proper and lawful conduct of Tenant's business in the Demised Premises, or any part thereof, and if failure to secure such license or permit would in any way materially affect Landlord, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and make a copy of such license available to Landlord upon request. Tenant shall at all times comply with the terms and conditions of each such license or permit if failure to so comply would in any way materially affect Landlord.

2.03 Tenant shall not at any time use or occupy, or suffer or permit anyone to use or occupy, the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the certificate of occupancy for the Demised Premises or for the Building (provided that Landlord represents that the certificate of occupancy does and shall continue to permit use of the Demised Premises for executive and general office use including the use as described in Section 2.01). Tenant shall not use any part of the Demised Premises for reselling to other tenants of the Building any telecommunications services, satellite capacity, electricity or other similar services (except in connection with any sublease permitted hereunder).

2.04 Landlord covenants and agrees that, during the Term, and so long as Tenant is not otherwise in default under this Lease, Landlord will not enter into any lease for any other premises which would permit another tenant to use any Landlord property in a way that would compete with Tenant's business at the Demised Premised. In the event that Tenant is in compliance with all requirements set forth in this Lease, Tenant may make demand upon any tenant of Landlord's for the cessation of any activity or business in violation of the use restriction set forth herein, and enforce the provisions of this section by an action or proceeding in any court of competent jurisdiction against any such tenant, by injunction or otherwise. Landlord shall not be liable or obligated to Tenant for any breach of the foregoing restrictions by any Landlord tenant, nor shall any such breach in any way release or relieve Tenant of any of its obligations hereunder. Notwithstanding anything to the contrary contained in this Lease, if Tenant shall (i) fail to enter into the Ground Lease in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (ii) fail to complete the renovations to the annex building

(including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (iii) Tenant defaults under the terms of the Ground Lease, Landlord shall have no obligations to Tenant with respect to noncompetition as set forth in this Section 2.04 commencing on the date that Tenant receives notice of the occurrence of (i), (ii) or (iii) as set forth in this sentence

ARTICLE 3

“As Is”; Preparation of the Demised Premises

3.01 Tenant acknowledges that it has had an opportunity to inspect the Demised Premises prior to the Effective Date, and Tenant will accept possession of the Demised Premises on the Effective Date in their then “as is” condition. All installations connecting to any Base Building System and construction work which may be required by Tenant to prepare the Demised Premises for Tenant’s initial occupancy (hereinafter referred to as “**Tenant’s Work**”) shall be performed at Tenant’s sole cost and expense utilizing, as may be necessary in connection with such work, a general contractor, mechanical and electrical engineers, contractors and subcontractors, all as approved by Landlord in writing, such approval not to be unreasonably withheld, provided, however, Tenant hereby agrees to engage at its expense an engineer reasonably acceptable to Landlord as the mechanical and electrical engineers for the performance of the applicable portions of Tenant’s Work and Tenant agrees to engage a general contractor reasonably acceptable to Landlord. The contractors and subcontractors performing Tenant’s Work in the Building shall also be reasonably acceptable to Landlord. Tenant’s Work shall be performed by Tenant in accordance with the applicable provisions of this Lease, including, without limitation, Article 12, it being agreed by the parties that Tenant’s Work shall be deemed to be Tenant’s Changes (as defined in Article 12). All Tenant’s Work shall be subject Landlord approval, which shall not be unreasonably withheld, conditioned or delayed. Plans for all Tenant’s Work shall be submitted to Landlord and Tenant shall not commence any such work prior to its receipt of Landlord’s consent.

ARTICLE 4

Adjustments of Rent

4.01 For the purpose of this Article:

(a) “**Taxes**” shall mean the real estate taxes and assessments and special assessments imposed upon the Building and the Land and payable by Landlord. If at any time during the Term of this Lease the methods of taxation prevailing at the commencement of the Term hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed (i) a tax, assessment, levy, imposition or charge wholly or partially as capital levy or otherwise on the Rents received therefrom, or (ii) a tax, assessment, levy, imposition or charge measured by or based in whole or in part upon the Demised Premises and imposed upon Landlord, or (iii) a license fee measured by the Rents payable by Tenant to Landlord including, but not limited to a commercial rent or occupancy tax, then all such taxes, assessments, levies, impositions or charges, or the part thereof so measured or based, shall be deemed to be included within the term Taxes for the purposes hereof. In no event shall there be included within the

term Taxes any income, franchise, estate or inheritance tax levied upon Landlord unless such taxes are in lieu of or as substitute for the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereon;

(b) **“Base Tax Rate”** shall mean the average of the actual Taxes (as finally determined) assessed against the Land and Building for the tax year commencing (i) July 1, 2009 and ending June 30, 2010 and (ii) July 1, 2010 and ending June 30, 2011;

(c) **“Base Tax Year”** shall mean the tax year commencing July 1, 2010 and ending June 30, 2011;

(d) **“Tax Year”** shall mean the fiscal year for which Taxes are levied by the governmental authority;

(e) **“Tenant’s Proportionate Share - Taxes”** For purposes of determining Tenant’s Tax Payment hereunder, the term “Tenant’s Proportionate Share - Taxes” shall mean 9.6%.

(f) **“Tenant’s Projected Share of Taxes”** shall mean 105% of the Tax Payment, if any, made by Tenant for the immediately preceding Tax Year.

4.02 If the Taxes for any Tax Year, beginning with the Tax Year following the Base Tax Year, shall be more than the Base Tax Rate, Tenant shall pay, as Additional Rent for such Tax Year, an amount equal to Tenant’s Proportionate Share – Taxes of the amount by which the Taxes for such Tax Year are greater than the Base Tax Rate. The amount payable by Tenant is hereinafter referred to as the **“Tax Payment.”** The Tax Payment shall be prorated, if necessary, to correspond with that portion of a Tax Year occurring within the Term of this Lease. The Tax Payment shall be payable by Tenant upon the later of (i) the date that is within twenty (20) days after receipt of a written demand from Landlord therefor, which written demand shall be accompanied by a copy of the tax bill together with Landlord’s computation of the Tax Payment and (ii) the date that is fifteen (15) days prior to the date that Landlord may pay such Taxes without the imposition of penalties or interest. If the Taxes for any Tax Year are payable to the taxing authority on an installment basis, Landlord may serve such demands upon, and the Tax Payment with respect to such Tax Year shall be payable by, Tenant on a corresponding installment basis.

4.03 Notwithstanding the fact that the increase in Rent is measured by an increase in Taxes, such increase is Additional Rent and shall be paid by Tenant as provided herein regardless of the fact that Tenant may be exempt, in whole or in part, from the payment of any taxes by reason of Tenant’s diplomatic, not for profit or other tax exempt status or for any other reason whatsoever.

4.04 Only Landlord shall be eligible to institute tax reduction or other proceedings to reduce the assessed valuation of the Land and Building. Should Landlord be successful in any such reduction proceedings and obtain a rebate or a reduction in assessment for periods during which Tenant has paid or is obligated to pay Tenant’s Proportionate Share - Taxes of increases in Taxes, or received the benefit of any decreases, Landlord shall, after deducting its

reasonable expenses, including, without limitation, attorneys' fees and disbursements in connection with such rebate, reduction or other benefit to Tenant (such expenses being hereafter referred to as "**Tax Expenses**"), return Tenant's Proportionate Share – Taxes of such rebate to Tenant.

4.05 Commencing after the Rent Commencement Date, Landlord shall furnish Tenant with a statement setting forth the Base Tax Rate and, at the expiration of any Tax Year thereafter, Landlord shall furnish Tenant with a statement setting forth Tenant's Proportionate Share - Taxes of the increase in Taxes. Each statement furnished under this Section 4.05 is hereinafter referred to as a "**Tax Statement.**"

4.06 Commencing on the first day of the first calendar month of the first Tax Year for which Landlord shall be entitled to receive a Tax Payment, and on the first day of each calendar month thereafter throughout the Term hereof, Tenant shall pay to Landlord, as Additional Rent for the then Tax Year, an amount equal to one twelfth (1/12) of Tenant's Projected Share of Taxes. Upon each date that a Tax Payment or an installment on account thereof shall be due from Tenant pursuant to the terms of Section 4.02 hereof, Landlord shall apply the aggregate of the installments of Tenant's Projected Share of Taxes then on account with Landlord against the Tax Payment or installment thereof then due from Tenant. In the event that such aggregate amount shall be insufficient to discharge such Tax Payment or installment, Landlord shall so notify Tenant in a written demand, together with supporting documentation in reasonable detail, served upon Tenant pursuant to the terms of Section 4.02, and Tenant shall forthwith pay the amount of such insufficiency to Landlord. If, however, such aggregate amount shall be greater than the Tax Payment or installment, Landlord shall forthwith either (a) pay the amount of excess directly to Tenant concurrently with the notice or (b) permit Tenant to credit the amount of such excess against the next installment of Tenant's Projected Share of Taxes due hereunder and, if the credit of such payment is not sufficient to liquidate the entire amount of such excess, Landlord shall then pay the amount of any difference to Tenant.

4.07 For purposes of this Lease:

A. The term "**Escalation Year**" shall mean each calendar year which shall include any part of the Term.

B. The term "**Base Operating Factor**" shall mean Operating Expenses (defined hereinafter) for the 2010 calendar year.

C. The term "**Tenant's Proportionate Share - Expenses**" shall be deemed to mean 9.6%.

D. The term "**Base Rate**" shall mean the rate of interest publicly announced from time to time by Citibank, N.A., or its successor, as its "base rate" (or such other term as may be used by Citibank, N.A., from time to time, for the rate presently referred to as its "base rate").

E. The term "**Amortized Expenses**" shall mean the annual amortization (on a straight line basis over a depreciable life in accordance with generally accepted accounting principles consistently applied) of expenditures incurred by Landlord after the Commencement Date for any equipment, device or capital improvement which is required by law or insurance

requirements or which is designed as a labor saving measure or designed to effect other economies or efficiencies in the operation or maintenance of the Property or the Building equipment, in each case, only to the extent of the savings created by such expenditures.

F. The term "**Operating Expenses**" shall mean Amortized Expenses and all other costs and expenses (and taxes thereon, if any) paid or incurred by Landlord or on behalf of Landlord with respect to the operation, cleaning, repair, safety, management, heating, ventilating and air conditioning of the Building, including the Building condenser water system (the "**Base Building System**"), security and maintenance of the Property, Building equipment, sidewalks, curbs, plazas and other areas adjacent to the Building, sewer and water rents, rates and charges, and with respect to the services provided tenants, reasonable annual management fees or, if no managing agent is employed by Landlord, a sum in lieu thereof not in excess of the then prevailing rates for management fees, to the extent applicable to the Building, payable in the Borough of Manhattan, City of New York, for hospitals (which, in either case, shall hereinafter be referred to as the "**Management Fee**"), insurance against loss or liability with respect to the payments or revenues; provided, however, that Operating Expenses shall exclude or have deducted from them, as the case may be:

1. executives' salaries;
2. expenditures for capital improvements or capital equipment, other than those properly included in Amortized Expenses;
3. amounts received by Landlord through insurance proceeds, condemnation awards, warranties and service contracts, or otherwise, to the extent they are compensation for sums previously included in Operating Expenses hereunder;
4. amounts paid to an affiliate of Landlord which are in excess of the amounts which would have been paid in the absence of such relationship in connection with arms-length transactions with unrelated third-parties;
5. depreciation, except as the same may be properly included in Amortized Expenses;
6. brokerage commissions paid for leasing of space in the Building;
7. Taxes (as said term is defined in Section 5.01.D.);
8. advertising and promotional expenditures incurred in connection with leasing space in the Building;
9. costs incurred in performing work or furnishing services for any tenant (including Tenant), at such tenant's expense, or if at Landlord's expense, to the extent that such work or service is in excess of any work or service that Landlord is obligated to furnish to Tenant at Landlord's expense pursuant to the terms of this lease or is otherwise furnishing to Tenant;

10. refinancing costs, rents payable under any superior lease, mortgage interest and mortgage amortization payments, and any other general overhead and general administrative expenses not related to the operation of the Property;

11. legal and auditing fees, other than legal and auditing fees reasonably incurred in connection with the maintenance and operation of the Building or in connection with the preparation of statements required pursuant to additional rent or lease escalation provisions;

12. repair costs resulting from the negligence of Landlord; and

13. costs incurred by Landlord that result from Landlord's breach of a lease in the Building or of any law.

G. If during all or part of any Escalation Year, Landlord shall not furnish any particular item(s) of work or service (the cost of which would otherwise constitute an Operating Expense) to portions of the Building due to the fact that such portions are not occupied or leased or for any other reason, then, for the purposes of computing Operating Expenses, Landlord may determine that the amount of such item for such period shall be deemed to be increased by an amount equal to the additional costs and expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such item of work or service to such portion of the Building or to such tenant.

4.08 A. Tenant shall pay as additional rent for each Escalation Year an amount ("Tenant's Operating Payment") equal to Tenant's Proportionate Share of the amount by which Operating Expenses for such Escalation Year exceeds the Base Operating Factor.

B. Landlord shall furnish to Tenant, with respect to each Escalation Year, a written statement setting forth Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year. The statement furnished under this Section 4.08 is hereinafter referred to as an "**Expense Statement**". Tenant shall pay to Landlord on the first day of each month during such Escalation Year an amount equal to one twelfth (1/12) of Landlord's reasonable estimate of Tenant's Operating Payment for such Escalation Year, such estimate not to exceed one hundred ten (110%) percent of Tenant's Operating Payment for the previous Escalation Year. If, however, Landlord shall furnish any such estimate for an Escalation Year subsequent to the commencement thereof, then (i) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Article in respect of the last month of the preceding Escalation Year; (ii) Tenant shall, within thirty (30) days after receipt by Tenant of such estimate, pay to Landlord the amount of any underpayment of Tenant's Operating Payment with respect to the then current Escalation Year calculated to the end of the month in which such estimate is furnished, or, in the event of an overpayment, Landlord shall either pay to Tenant or, at Landlord's election, credit the amount against subsequent payments under this Article, the amount of Tenant's overpayment; and (iii) Tenant shall pay to Landlord an amount equal to one twelfth (1/12) of Tenant's Operating Payment shown on such estimate on the first day of the month following the month in which such estimate is furnished to Tenant, and monthly thereafter throughout the remainder of such Escalation Year unless and until Landlord shall furnish to Tenant a revised statement of Landlord's reasonable estimate of Tenant's

Operating Payment for such Escalation Year, which Landlord may do at any time or from time to time and in such case, Tenant's Operating Payment for such Escalation Year shall be adjusted and paid or refunded, as the case may be, substantially in the same manner as provided in the preceding clause.

C. Within sixty (60) days after the end of each Escalation Year Landlord shall furnish to Tenant an Expense Statement for such Escalation Year. Each such year end Expense Statement shall be accompanied by a computation of Operating Expenses for the Building from which Landlord shall make the computation of Operating Expenses hereunder. In making its computation of Operating Expenses, Landlord may rely on Landlord's estimates and allocations when necessary. If the Expense Statement shall show that the sums paid by Tenant under the Article exceeded Tenant's Operating Payment required to be paid by Tenant for such Escalation Year, Landlord shall either refund to Tenant the amount of such excess or credit the amount of such excess against subsequent payments under this; and if the Expense Statement for such Escalation Year shall show that the sums so paid by Tenant were less than Tenant's Operating Payment paid by Tenant for such Escalation Year, Tenant shall pay the amount of such deficiency within thirty (30) days after receipt by Tenant of such year end Expense Statement.

D. If an Escalation Year begins prior to the Commencement Date or ends after the Expiration Date or sooner termination of this lease, Tenant's Operating Payment with respect thereto shall be apportioned in the ratio of the number of days in such Escalation Year occurring within the Term to the total number of days in such Escalation Year.

4.09 Landlord's failure during the lease Term to prepare and deliver any of the tax bills, statements, notice or bills set forth in this Article 4, or Landlord's failure to make a demand, shall not in any way cause Landlord to forfeit or surrender its rights to collect any of the foregoing items of additional rent which may have become due during the Term of this Lease. Tenant's liability for the amounts due under this Article 4 shall survive the expiration of the Term or any other termination of this Lease.

4.10 If all or any part of the fixed rent or additional rent payable hereunder shall at any time become uncollectible, reduced or required to be refunded by virtue of any laws and/or requirements of public authorities (including, without limitation, rent control or stabilization laws) then for the period prescribed thereby Tenant shall pay to Landlord the maximum amounts of fixed rent and additional rent permitted pursuant thereto. Upon the expiration of the applicable period of time during which such amounts shall be uncollectible, reduced or refunded, Tenant shall pay to Landlord as additional rent, within thirty (30) days after written demand, all such uncollected, reduced or refunded amounts that would have been payable for the period absent such laws and/or requirements of public authorities; provided that the retroactive collection thereof shall then be lawful.

ARTICLE 5

Security Deposit

5.01 Tenant has deposited with Landlord the sum of \$135,590.00 in the form of cash or a letter of credit ("**Letter of Credit**") pursuant to the requirements set forth in Section 5.02 as security for the faithful performance and observance by Tenant of the terms, provisions

and conditions of this Lease. Landlord agrees to hold the said Letter of Credit or cash, as the case may be, for the entire Term hereof, subject, however, to the terms of this Article 5 with respect to the application of the proceeds thereof in the event of Tenant's default hereunder. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent and Additional Rent, Landlord may notify the Issuing Bank (as defined herein), if a Letter of Credit is provided and thereupon receive such portion of the proceeds of the said Letter of Credit or cash, as the case may be, and use, apply or retain the whole or any part of such proceeds, as the case may be, to the extent required for the payment of any Rent and Additional Rent or any other sum as to which Tenant is in default or for any sum which Landlord may reasonably expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord. In the event that Landlord applies or retains any portion or all of the proceeds of such Letter of Credit or cash, as the case may be, pursuant to this Section 5.01, then Tenant shall forthwith provide a replacement Letter of Credit complying with the terms of this Article 5 or cash, in either case, equal to the portion of the Security Deposit applied. The Letter of Credit or cash security, less any monies applied pursuant to this Section 5.01, as the case may be, shall be returned to Tenant within fifteen (15) days after Expiration Date, or earlier termination of this Lease.

5.02 The Letter of Credit shall be a clean, irrevocable and unconditional Letter of Credit issued by and drawn upon any commercial bank (hereinafter referred to as the "**Issuing Bank**") with offices for banking purposes in the City of New York and which is a member of the New York Clearing House Association and having a net worth of not less than Five Hundred Million and 00/100 (\$500,000,000.00) Dollars, which Letter of Credit shall have an initial term of not less than one year, be in form and content reasonably satisfactory to Landlord, and be for the account of Landlord. The Letter of Credit shall provide that it shall be deemed automatically renewed, without amendment, for consecutive periods of one (1) year each thereafter during the Term of this Lease (with a final expiration date of no earlier than 30 days after the Expiration Date), unless Issuing Bank sends written notice (hereinafter referred to as the "**Non-Renewal Notice**") to Landlord by US Express Mail, return receipt requested, not less than thirty (30) days next preceding the then expiration date of the Letter of Credit that it elects not to have such Letter of Credit renewed. Additionally, the Letter of Credit shall provide that Landlord, within twenty (20) days of its receipt of the Non-Renewal Notice, shall have the right, exercisable by means of (a) a sight draft bearing reference to the Letter of Credit and (b) Landlord's certified statement of default or non-renewal (i) that Tenant has breached its obligations under this Lease, (ii) stating the amount to be received in accordance with Section 5.01 of this Lease, and (iii) stating that the applicable grace period has expired, to receive the monies represented by the Letter of Credit and hold such proceeds pursuant to the terms of Section 5.01 as a cash security (and Landlord shall have no obligation to maintain such cash security in an interest bearing account) pending the replacement of such Letter of Credit or other application of such cash security or proceeds pursuant to the terms of this Lease. The sight draft and certified statement shall each be executed by an authorized representative of Landlord.

5.03 In the event of a sale of the Land and the Building or a leasing of the Building, Landlord shall either (a) return the Letter of Credit or cash, as the case may be, deposited hereunder to Tenant or (b) transfer the Letter of Credit or cash, as the case may be,

deposited hereunder to the vendee or lessee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Letter of Credit or cash, as the case may be, provided that in the case of a transfer, such transferee has assumed Landlord's obligations hereunder. In the event of such a transfer, Tenant agrees to look solely to the new Landlord for the return of said Letter of Credit or cash, as the case may be. It is agreed that the provisions hereof shall apply to every transfer or assignment made of said Letter of Credit or cash, as the case may be, to a new Landlord.

5.04 Tenant covenants that it will not assign or encumber, or attempt to assign or encumber, the Letter of Credit or cash, as the case may be, deposited hereunder as security, or any proceeds thereof, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment, or attempted encumbrance.

5.05 In the event that at any time during the Term of this Lease Landlord reasonably determines (a) that the net worth of the Issuing Bank shall be less than the minimum amount specified in Section 5.02, or (b) that circumstances have occurred indicating that the Issuing Bank may be incapable of, unable to, or prohibited from honoring the then existing Letter of Credit (hereinafter referred to as the "**Existing L/C**") in accordance with the terms thereof, then, upon the happening of either of the foregoing, Landlord may send written notice to Tenant (hereinafter referred to as the "**Replacement Notice**") requiring Tenant within ten (10) days to replace the Existing L/C with a new letter of credit (hereinafter referred to as the "**Replacement L/C**") from an Issuing Bank meeting the qualifications described in Section 5.02. Upon receipt of a Replacement L/C meeting the qualifications of Section 5.02, Landlord shall forthwith return the Existing L/C to Tenant. In the event that a Replacement L/C meeting the qualifications of Section 5.02 is not received by Landlord within the time specified, the Existing L/C may be presented for payment by Landlord in accordance with the terms and conditions of Section 5.02 and the proceeds thereof shall be held by Landlord as cash security in accordance with Section 5.01 subject, however, to Tenant's right, at any time thereafter if no default then exists, to replace such cash security with a new letter of credit meeting the qualifications of Section 5.02.

ARTICLE 6

Subordination, Notice to Lessors and Mortgages

6.01 This Lease, and all rights of Tenant hereunder, are and shall be subject and subordinate in all respects to all ground leases, overriding leases and underlying leases of the Land and/or the Building now or hereafter existing and to all mortgages which may now or hereafter affect the Land and/or the Building and/or any of such leases, whether or not such mortgages shall also cover other lands and/or buildings, to each and every advance made or hereafter to be made under such mortgages, and to all renewals, modifications, replacements and extensions of such leases and such mortgages and spreaders and consolidations of such mortgages. This Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute and deliver any instrument that Landlord, the lessor of any such lease or the holder of any such mortgage or any of their respective successors in interest may reasonably request to evidence such subordination, provided that no such instrument shall materially alter the terms of this Lease. The leases to which this Lease is, at the time referred to, subject and subordinate pursuant to this

Article are hereinafter sometimes referred to as “**Superior Leases**” and the mortgages to which this Lease is, at the time referred to, subject and subordinate are hereinafter sometimes referred to as “**Superior Mortgages**” and the lessor of a Superior Lease or its successor in interest at the time referred to is sometimes hereinafter called a “**Lessor**” and the mortgagee of a Superior Mortgage or its successor in interest at the time referred to is sometimes hereinafter called a “**Mortgagee**”.

6.02 In the event of any act or omission of Landlord which would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right (i) until it has given written notice of such act or omission to the Mortgagee of each Superior Mortgage and the Lessor of each Superior Lease whose name and address shall previously have been furnished to Tenant by notice in writing, and (ii) unless such act or omission shall be one which is not capable of being remedied by Landlord or such Mortgagee or Lessor within a reasonable period of time, until a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Mortgagee or Lessor shall have become entitled under such Superior Mortgage or Superior Lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy), provided such Mortgagee or Lessor shall promptly give Tenant written notice of intention to, thereafter promptly commence and continue to remedy such act or omission.

6.03 If the Lessor of a Superior Lease or the Mortgagee of a Superior Mortgage or any other person or entity shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then at the request of such party so succeeding to Landlord’s rights (herein sometimes referred to as “**Successor Landlord**”) and upon Successor Landlord’s election, which may be withheld at its sole discretion, and written agreement to accept Tenant’s attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant’s landlord under this Lease, and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment this Lease shall continue in full force and effect as, or as if it were, a direct lease between the Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment except that the Successor Landlord shall not:

(a) be liable for any previous act or omission of Landlord under this Lease;

(b) be subject to any offset, not expressly provided for in this Lease, which shall have theretofore accrued to Tenant against Landlord; or

(c) be bound by any previous modification of this Lease or by any previous prepayment of more than one month’s Fixed Rent not expressly provided for in this Lease or received by or credited to such Successor Landlord, unless such modification or prepayment shall have been expressly approved in writing by the Lessor of the Superior Lease or the Mortgagee of the Superior Mortgage through or by reason of which the Successor Landlord shall have succeeded to the rights of Landlord under this Lease.

ARTICLE 7
Quiet Enjoyment

7.01 So long as this Lease is in full force and effect and Tenant is not in default hereunder after notice and expiration of the applicable cure periods, Tenant shall peaceably and quietly have, hold and enjoy the Demised Premises subject, nevertheless, to the obligations of this Lease and, as provided in Article 6, to the Superior Leases and the Superior Mortgages.

7.02 Without in any way limiting the foregoing, in the event that Landlord moves all or substantially all of its operations out of the Building during the Term of this Lease, Tenant shall have the right to continue to occupy the Demised Premises under this Lease and on the same basis, including substantially similar costs, as would exist had Landlord not so moved its operations out of the Building. In such instance, Landlord is and shall continue to be legally responsible for the Building and its obligations hereunder, including, without limitation,

(a) the same services that are presently provided including, without limitation, security, heat, hot water, power, and, as required under this Lease, maintenance and repair of the Building and Base Building Systems;

(b) staff at and with respect to the Building as required to maintain the current standard of operations, and not Landlord's business therein, and including an individual familiar with the operations and services in the Building to be the primary contact with the Tenant with respect to such operations and services;

(c) maintain insurance with respect to the Building.

ARTICLE 8
Assignment and Subletting

8.01 Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage or encumber this agreement, nor underlet, nor suffer, or permit the Demised Premises or any part thereof to be used or occupied by others, without the prior written consent of Landlord in each instance which consent may be withheld at Landlord's sole discretion. If this Lease be assigned, or if the Demised Premises or any part thereof be underlet or occupied by anybody other than Tenant, Landlord may, after default by Tenant, collect Rent from the assignee, subtenant or occupant, and apply the net amount collected to the Rent herein reserved, but no assignment, subletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or subletting shall not in any wise be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting. In no event shall any permitted subtenant assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance. Notwithstanding the foregoing, Tenant may, without Landlord's consent, sublease the

Demised Premises or any part(s) thereof or assign this Lease to any corporation, partnership, or other entity controlling, controlled by, or under common control with Tenant; provided, however, (i) any such entity shall not be less capitalized than Tenant at the time of the assignment or sublet, (ii) Landlord is provided with written notification of any such assignment or sublet, along with assignment or sublet documentation reasonably acceptable to Landlord, and (iii) any such assignment or sublet shall not relieve Tenant's responsibilities under the terms of the Lease.

ARTICLE 9

Compliance with Laws and Requirements of Public Authorities

9.01 Tenant shall give prompt notice to Landlord of any notice it receives of the violation of any law or requirement of any local, State, or Federal public authority with respect to the Demised Premises, and at its expense shall comply with all laws and requirements of all such public authorities which shall, with respect to the Demised Premises or the use and occupation thereof, or the abatement of any nuisance, impose any violation, order or duty on Landlord or Tenant, arising from (i) Tenant's particular use or manner of use of the Demised Premises including, but not limited to, proper disposal of medical waste (ii) the particular manner of conduct of Tenant's business or operation of its installations, equipment or other property therein, (iii) any cause or condition created by Tenant's Work or Tenant's Changes (as defined herein), other than by Landlord's performance of any work for or on behalf of Tenant, or (iv) breach of any of Tenant's obligations hereunder. However, Tenant shall not be so required to make any structural or other substantial change in the Demised Premises unless the requirement arises from a cause or condition referred to in clause (i), (ii), (iii) or (iv) above. Furthermore, Tenant need not comply with any such law or requirement of public authority so long as Tenant shall be contesting the validity thereof, or the applicability thereof to the Demised Premises, in accordance with Section 9.02.

9.02 Tenant may, at its expense (and if necessary, in the name of but without expense to Landlord) contest, by appropriate proceedings prosecuted diligently and in good faith, the validity, or applicability to the Demised Premises, of any law or requirement of public authority, and Landlord shall cooperate with Tenant in such proceedings, provided that:

(a) Landlord shall not be subject to criminal penalty or to prosecution for a crime nor shall the Demised Premises or any part thereof be subject to being condemned or vacated, by reason of non-compliance or otherwise by reason of such contest;

(b) Tenant shall defend, indemnify and hold harmless Landlord against all liability, loss or damage which Landlord shall suffer by reason of such noncompliance or contest, including reasonable attorney's fees and other expenses reasonably incurred by Landlord;

(c) such non-compliance or contest shall not constitute or result in any violation of any Superior Lease or Superior Mortgage, or if such Superior Lease and/or Superior Mortgage shall permit such non-compliance or contest on condition of the taking of action or furnishing of security by Landlord, such action shall be taken and such security shall be furnished at the expense of Tenant; and

(d) Tenant shall keep Landlord advised as to the status of such proceedings.

Without limiting the application thereto of Subsection (a) above, Landlord shall be deemed subject to prosecution for a crime within the meaning thereof if Landlord, or any officer of Landlord individually, is charged with a crime of any kind or degree whatever, whether by service of a summons or otherwise, unless such charge is withdrawn before Landlord or such officer (as the case may be) is required to plead or answer thereto.

9.03 Neither Landlord nor Tenant shall install, or permit to be installed, in the Building friable asbestos or any substance containing asbestos which is deemed hazardous by any federal, state or local regulations respecting such material. In the event that during the Term hereof it is determined that there is asbestos in the Demised Premises, Landlord agrees that at Landlord's sole cost and expense, it shall remove, encapsulate or abate the same, in accordance with all applicable laws.

ARTICLE 10

Insurance [SUBJECT TO REVIEW BY LANDLORD'S INSURANCE CONSULTANT]

10.01 Tenant shall not violate, or permit the violation of, any condition imposed by the standard fire insurance policy then issued for office buildings in the Borough of Manhattan, City of New York, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Demised Premises which would subject Landlord to any liability or responsibility for personal injury or death or property damage, or which would increase the fire or other casualty insurance rate on the Building or the property therein over the rate which would otherwise then be in effect (unless Tenant pays the resulting premium as provided in Section 10.03) or which would result in insurance companies of good standing refusing to insure the Building or any of such property in amounts reasonably satisfactory to Landlord; provided, however, that in no event shall the mere use of the Demised Premises for customary and ordinary office purposes or for the use of the Demised Premises for the use contemplated herein constitute a breach by Tenant of the provisions of this Section 10.01.

10.02 Tenant covenants to provide to Landlord on or before the Effective Date and to keep in force during the Term hereof with respect to the Demised Premises the following insurance coverage:

(a) For the benefit of Landlord and Tenant commercial general policy of liability insurance protecting Landlord as additional insured and Tenant against any liability whatsoever occasioned by accident on or about the Demised Premises or any appurtenances thereto. Such policy is to be written by good and solvent insurance companies authorized to do business in the state of New York and rated "A" or better by A.M. Best Company, Inc. and the limits of liability thereunder shall not be less than the amount of Ten Million and 00/100 (\$10,000,000.00) Dollars combined single limit coverage on a per occurrence basis, and in the amount of Five Million and 00/100 (\$5,000,000.00) Dollars in respect of property damages, and such amounts and coverages shall be subject to change as Landlord may reasonably request. Such insurance may be carried under a blanket policy covering the Demised Premises and other locations of Tenant, if any or under an umbrella policy; and

(b) All-risk coverage in an amount adequate to cover the cost of replacement of all personal property, fixtures, furnishing and equipment, including Tenant's Work located in the Demised Premises, and shall include 12 months business interruption insurance, payable to Landlord to the extent of Rents due. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

(c) Builder's risk coverage in an amount as reasonably required by Landlord to be delivered to Landlord prior to the commencement of any Tenant's Changes or Tenant Work. Such policy shall be written by good and solvent insurance companies authorized to do business in the State of New York and rated "A" or better by A.M. Best Company, Inc., and shall not have a deductible greater than \$5,000.00.

Prior to the time such insurance is first required to be carried by Tenant and thereafter, at least fifteen (15) days prior to the expiration of any such policies, Tenant agrees to deliver to Landlord either duplicate originals of the aforesaid policies or certificates evidencing such insurance, provided said certificate contains an endorsement that such insurance may not be modified or cancelled except upon fifteen (15) days' notice to Landlord together with evidence of payment for the policy. Tenant's failure to provide and keep in force the aforementioned insurance shall be regarded as a material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default.

10.03 Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each all-risk policy obtained by it and covering the Building (as to Landlord's policy only), the Demised Premises (or, with respect to Tenant's policy any Tenant's Changes, including Tenant's Work, constructed by Tenant), and the personal property, fixtures and equipment located therein or thereon, pursuant to which the respective insurance companies waive subrogation or permit the insured, prior to any loss, to agree with a third party to waive any claim it might have against said third party. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Demised Premises in accordance with the terms of this Lease. If and to the extent that such waiver or permission can be obtained only upon payment of an additional charge then, except as provided in the following two paragraphs, the party benefiting from the waiver or permission shall pay such charge upon demand, or shall be deemed to have agreed that the party obtaining the insurance coverage in question shall be free of any further obligations under the provisions hereof relating to such waiver or permission.

In the event that Landlord shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, at Tenant's option Landlord shall cause Tenant to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Tenant as such as assured, Tenant shall pay such additional premium upon written demand or Landlord shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Tenant shall have been named as one of the assureds in any of Landlord's policies in accordance with the foregoing, Tenant shall endorse

promptly to the order of Landlord, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Tenant hereby irrevocably waives any and all rights in and to such proceeds and payments.

In the event that Tenant shall be unable at any time to obtain one of the provisions referred to above in any of its insurance policies, Tenant shall cause Landlord to be named in such policy or policies as one of the assureds, but if any additional premium shall be imposed for the inclusion of Landlord as such an assured, Landlord shall pay such additional premium upon demand or Tenant shall be excused from its obligations under this paragraph with respect to the insurance policy or policies for which such additional premiums would be imposed. In the event that Landlord shall have been named as one of the assureds in any of Tenant's policies in accordance with the foregoing, Landlord shall endorse promptly to the order of Tenant, without recourse, any check, draft or order for the payment of money representing the proceeds of any such policy or any other payment growing out of or connected with said policy and Landlord hereby irrevocably waives any, and all rights in and to such proceeds and payments.

Subject to the foregoing provisions of this Section 10.03, and insofar as may be permitted by the terms of the insurance policies carried by it, each party hereby releases the other with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the Term of this Lease.

10.04 If, by reason of a failure of Tenant to comply with the provisions of Section 9.01 or Section 10.01, the rate of all-risk insurance on the Building or equipment or other property of Landlord shall be higher than it otherwise would be, Tenant shall reimburse Landlord, on written demand, for that part of the premiums for all-risk coverage paid by Landlord because of such failure on the part of Tenant.

10.05 If any dispute shall arise between Landlord and Tenant with respect to the incurrence or amount of any additional insurance premium referred to in Section 10.03, the dispute shall be determined by arbitration in accordance with Article 33.

ARTICLE 11

Rules and Regulations

11.01 Tenant and its employees and agents shall faithfully observe and comply with the rules and regulations of the Building (herein so called) and such reasonable changes therein (whether by modification, elimination or addition) as Landlord at any time or times hereafter may make and communicate in writing to Tenant, which do not unreasonably affect Tenant's rights and obligations hereunder or the conduct of Tenant's business in the Demised Premises, except as required by any governmental law, rule, regulation, ordinance or similar decree.

11.02 Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to Tenant to enforce the rules and regulations of the Building or

the terms, covenants or conditions in any other lease, as against any other tenant, and Landlord shall not be liable to Tenant for violation of the same by any other tenant or its employees, agents or visitors. However, Landlord shall not enforce any of the rules and regulations in such manner as to discriminate against Tenant or anyone claiming under or through Tenant.

ARTICLE 12 **Tenant's Changes**

12.01 Subject to the prior approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, Tenant may from time to time during the Term of this Lease, at its expense, make such other alterations, additions, installations, substitutions, improvements and decorations (hereinafter collectively referred to as the "changes" and, as applied to changes provided for in this Article, "**Tenant's Changes**") in and to the Demised Premises, excluding structural changes, as Tenant may reasonably consider necessary for the conduct of its business in the Demised Premises, on the following conditions:

(a) the outside appearance or the strength of the Building or of any of its structural parts shall not be affected;

(b) no part of the Building outside of the Demised Premises shall be physically affected;

(c) the proper functioning of any of the mechanical, electrical, sanitary and other service systems of the Building shall not be adversely affected or the usage of such systems by Tenant shall not be increased;

(d) in performing the work involved in making such changes, Tenant shall be bound by and observe all of the conditions and covenants contained in the following Sections of this Article; and

(e) before proceeding with any Tenant's Changes, other than decorative or non-structural interior changes costing less than \$50,000.00 in the aggregate (collectively, the "**Minor Tenant Changes**"), Tenant will advise Landlord in writing thereof and, shall submit to Landlord proof reasonably satisfactory to Landlord of the cost thereof, and shall further submit the names of all of the contractors or subcontractors who will be performing Tenant's Changes for Landlord's approval, not to be unreasonably withheld (the general contractor shall be selected from a list of approved building contractors provided by Landlord), which approval as to non-structural changes shall not be unreasonably withheld. Additionally, before proceeding with any Tenant's Changes, other than Minor Tenant Changes, Tenant shall (i) submit to Landlord, when plans and specifications would customarily be required in connection with the nature of the work proposed, detailed plans and specifications for the work to be done for Landlord's approval, not to be unreasonably withheld, which approval or disapproval (and the reasons therefor) shall be given by Landlord to Tenant within ten (10) business days of the submission of such plans and specifications to Landlord; (ii) upon written demand, pay to Landlord the reasonable out of pocket costs incurred by Landlord for the review of such plans and specifications by its third party architect, engineer and other consultants, and (iii) abide by Landlord's reasonable construction requirements then in effect for the Building, including

without limitation, Landlord's construction rules and regulations, except that if there are any conflicting provisions of this Lease and the construction rules and regulations, the provisions of this Lease shall prevail. Landlord may, as a condition of its approval of Tenant's plans, require Tenant to make revisions in and to the plans and specifications. If Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) in connection with Tenant's requested approval of any plans and specifications within ten (10) business days after Landlord's receipt thereof, then Tenant may deliver a second written notice to Landlord requesting Landlord's approval thereof. Thereafter, if Landlord shall fail to respond to Tenant with Landlord's approval or disapproval (together with an explanation of the reasons therefor) within ten (10) business days after Landlord's receipt of said second notice, then, as Tenant's sole remedy in connection therewith, and provided that said second notice shall bear the following legend typed in bold, capital letters at the top: **"IF LANDLORD SHALL FAIL TO RESPOND TO TENANT IN CONNECTION WITH THIS REQUEST FOR APPROVAL WITHIN TEN (10) BUSINESS DAYS, LANDLORD SHALL BE DEEMED TO HAVE CONSENTED THERETO,"** Landlord shall be deemed to have approved such plans and specifications.

12.02 Tenant, at its expense, shall obtain all necessary governmental permits, inspections, and certificates for the commencement and prosecution of Tenant's Changes and for final approval thereof upon completion, and shall cause Tenant's Changes to be performed in compliance therewith and with all applicable laws and requirements of all applicable local, State, and Federal public authorities, and with all applicable requirements of insurance bodies, and in good and workmanlike manner, using new materials and equipment at least equal in quality and class to the original installations in the Building. Landlord shall promptly cooperate with Tenant by executing any necessary applications or other documentation reasonably required to be executed by Landlord in connection with approved Tenant's Changes. Tenant's Changes shall be performed in such manner as not to unreasonably interfere with or delay and (unless Tenant shall indemnify Landlord therefor to the latter's reasonable satisfaction) as not to impose any additional expense upon Landlord in the maintenance or operation of the Building. Throughout the performance of Tenant's Changes, Tenant, at its expense, shall carry, or cause to be carried, workmen's compensation insurance in statutory limits and general liability insurance for any occurrence in or about the Building as set forth in Section 10.02 hereof, in which Landlord and its agents shall be named as parties insured, in such limits as Landlord may reasonably prescribe, with insurers reasonably satisfactory to Landlord. Tenant shall furnish Landlord with reasonably satisfactory evidence that such insurance is in effect at or before the commencement of Tenant's Changes and, on request, at reasonable intervals thereafter during the continuance of Tenant's Changes. If any of Tenant's Changes shall involve the removal of any fixtures, equipment or other property in the Demised Premises which are not Tenant's Property (as defined in Article 13), such new fixtures, equipment or other property shall be promptly replaced, at Tenant's expense, with fixtures, equipment or other property (as the case may be) of like utility and at least equal value unless Landlord shall otherwise expressly consent in writing and Tenant shall, upon Landlord's request, store and preserve, at Tenant's sole cost and expense, any such fixtures, equipment or property so removed and shall return same to Landlord upon the expiration or sooner termination of this Lease. All electrical and plumbing work in connection with Tenant's Changes shall be performed by contractors or subcontractors licensed therefor by all governmental agencies having or asserting jurisdiction and reasonably acceptable to Landlord.

12.03 Tenant, at its expense, and with diligence and dispatch, shall procure the cancellation or discharge of all notices of violation and/or mechanic's liens arising from or otherwise connected with Tenant's Changes or Tenant Work which shall be issued by the Department of Buildings or any other public or quasi-public authority having or asserting jurisdiction. Tenant shall defend, indemnify and save harmless Landlord against any and all mechanic's and other liens filed in connection with Tenant's Changes or Tenant Work, including the liens of any security interest in, conditional sales of, or chattel mortgages upon, any materials, fixtures or articles so installed in and constituting part of the Demised Premises and against all costs, expense and liabilities incurred in connection with any such lien, security interest, conditional sale or chattel mortgage or any action or proceeding brought thereon. Tenant, at its expense, shall procure the satisfaction or discharge of all such liens within sixty (60) days after Landlord makes written demand therefor. However, nothing herein contained shall prevent Tenant from contesting, in good faith and at its own expense, any such notice of violation, provided that Tenant shall comply with the provisions of Section 9.02.

12.04 Tenant agrees that the exercise of its rights pursuant to the provisions of this Article 12 or any other provision of this Lease shall not be done in a manner which would create any work stoppage, picketing, labor disruption or dispute or violate Landlord's union contracts affecting the Land and/or Building nor unreasonably interfere with the business of Landlord or any Tenant or occupant of the Building. In the event of the occurrence of any condition described above arising from the exercise by Tenant of its right pursuant to the provisions of this Article 12 or any other provision of this Lease, Tenant shall, immediately upon notice from Landlord, cease the manner of exercise of such right giving rise to such condition. In the event Tenant fails to cease such manner of exercise of its rights as aforesaid, Landlord, in addition to any rights available to it under this Lease and pursuant to law, shall have the right to injunction without notice. With respect to Tenant's Changes, Tenant shall make all arrangements for the use of the freight elevators servicing the Demised Premises, including, without limitation, any reasonable expenses incurred as a result of any Fire Watch necessitated by the Tenant's Changes and Landlord shall cooperate with Tenant as required in connection with all such arrangements.

ARTICLE 13 **Tenant's Property**

13.01 All fixtures, equipment, improvements and appurtenances attached to or built into the Demised Premises at the commencement of or during the Term of this Lease, whether or not by or at the expense of Tenant, shall be and remain a part of the Demised Premises (unless Landlord gave Tenant notice prior to the time of installation that Tenant shall be required to remove same upon the expiration of the Term, in which case Tenant shall so remove such items in accordance herewith), shall be deemed the property of Landlord and shall not be removed by Tenant, except as hereinafter in this Article expressly provided.

13.02 All movable partitions (and attached components, i.e. workstations), lighting fixtures, special cabinet work, other business and trade fixtures, machinery and equipment, communications equipment and office equipment, whether or not attached to or built into the Demised Premises, which are installed in the Demised Premises by or for the account of Tenant, and can be removed without permanent structural damage to the Building, and all

furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Demised Premises, (all of which are sometimes referred to as “**Tenant’s Property**”) shall be and shall remain the property of Tenant and may be removed by it at any time during the Term of this Lease; provided that if any of Tenant’s Property is removed, Tenant or any party or person entitled to remove same shall repair or pay the cost of repairing any damage to the Demised Premises or to the Building resulting from such removal. Any equipment or other property for which Landlord shall have granted any allowance or credit to Tenant or which has replaced such items originally provided by Landlord at Landlord’s expense shall not be deemed to have been installed by or for the account of Tenant, without expense to Landlord, and shall not be considered Tenant’s Property.

13.03 At or before the Expiration Date, or the date of any earlier termination of this Lease, or as promptly as practicable after such an earlier termination date, Tenant at its expense, shall remove from the Demised Premises all of Tenant’s Property except such items thereof as Tenant shall have expressly agreed in writing with Landlord were to remain and to become the property of Landlord, and shall fully repair any damage to the Demised Premises or the Building resulting from such removal. Tenant’s obligation herein shall survive the termination of the Lease.

13.04 Any other items of Tenant’s Property (except money, securities and other like valuables) which shall remain in the Demised Premises after the Expiration Date or the date of any earlier termination of this Lease may, at the option of the Landlord, be deemed to have been abandoned, and in such case either may be retained by Landlord as its property or may be disposed of, without accountability, in such manner as Landlord may see fit and, any expense incurred by Landlord in connection with the removal of any such Tenant’s Property from the Demised Premises shall be paid by Tenant within five (5) days following Landlord’s written demand thereof.

ARTICLE 14 **Repairs and Maintenance**

14.01 Tenant shall take good care of the Demised Premises. Tenant, at its expense, shall promptly make all repairs, ordinary or extraordinary, interior or exterior, structural (provided, Landlord at its sole election may perform such structural or exterior work at Tenant’s cost) or otherwise, in and about the Demised Premises and the Building, as shall be required by reason of (i) the performance or existence of Tenant’s Work or Tenant’s Changes, (ii) the installation, use or operation of Tenant’s Property in the Demised Premises, (iii) the moving of Tenant’s Property in or out of the Building, or (iv) the misuse or neglect of Tenant or any of its employees, agents or contractors. Tenant, at its sole expense, shall repair or replace all scratched, damaged or broken doors or other glass within the Demised Premises and shall be responsible for all repairs, maintenance and replacement of wall and floor coverings in the Demised Premises, and, for the repair and maintenance of all non-building standard lighting fixtures therein.

14.02 Landlord, at its expense, shall keep and maintain the Building and its fixtures, appurtenances, systems and facilities serving the Demised Premises, in good working order, condition and repair and shall make all repairs, structural and otherwise, interior and

exterior, as and when needed in or about the Demised Premises, except for those repairs for which Tenant is responsible pursuant to any other provision of this Lease.

14.03 Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making of any repairs or changes which Landlord is required by this Lease or law to make in or to any portion of the Building or the Demised Premises, or in or to the fixtures, equipment or appurtenances of the Building or the Demised Premises, provided that Landlord shall use reasonable diligence with respect thereto and shall perform such work, except in case of emergency, at times reasonably convenient to Tenant and otherwise in such manner as will, not materially interfere with Tenant's use of the Demised Premises; provided, however, the foregoing shall not require Landlord to perform any such repairs or changes on an overtime or premium time basis.

ARTICLE 15 Electricity

15.01 For purposes of this Article "**Tenant's Cost**" shall mean \$115,251.50 per year, subject to an escalation equal to any increase in the actual cost of electricity.

15.02 Tenant shall pay the amount of Tenant's Cost set forth thereon to Landlord as Additional Rent in equal monthly installments.

15.03 The Building is equipped with risers, feeders and wiring so as to supply electrical service to the Demised Premises.

15.04 With respect to all of the provisions of this Article 15:

(a) Landlord shall not be liable or responsible to Tenant for any loss or damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements, unless caused by the negligence of Landlord or its agents, employees, or contractors.

(b) Tenant covenants and agrees not to connect any additional electrical equipment of any type to the Building electric distribution system without Landlord's prior written consent, which consent shall not unreasonably be withheld or delayed. Notwithstanding the foregoing, Landlord hereby consents to the connection to the Building electric distribution system and use of the equipment described on Exhibit D. In no event shall Tenant use or install any fixtures, equipment or machines the use which in conjunction with other fixtures, equipment and machines in the Demised Premises would result in an overload of the electrical circuits servicing the Demised Premises.

(c) At all times Tenant's use of electric current shall never exceed the capacity of the then existing feeders to the Building or the risers or wiring installation. Tenant shall furnish, install and replace, as required, all lighting tubes, lamps, bulbs and ballasts required in the Demised Premises, at Tenant's sole cost and expense. All lighting tubes, lamps, bulbs and ballasts so installed shall become Landlord's property upon the expiration or sooner termination of the Lease.

(d) Tenant expressly agrees that all installations, alterations and additions of and to the electrical fixtures, appliances, or equipment within the Demised Premises shall be subject to Landlord's prior written approval, and, if such approval shall be given, rigid conduit only shall be permitted. If, in connection with any request for such approval, Landlord shall, in its sole judgment, determine that the risers of the Building servicing the Demised Premises shall be insufficient to supply Tenant's electrical requirements with respect thereto, Landlord shall, at the sole cost and expense of Tenant, install any additional riser(s) or feeder(s) that Landlord shall deem necessary with respect thereto, provided, however that, if Landlord shall determine, in its sole judgment, that the same will cause permanent damage or injury to the Building or to the Demised Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expense, or interfere with, or disturb the other tenants or occupants of the Building, then Landlord shall not be obligated to make such installation, and Tenant shall not make the installation, alteration, or addition with respect to which Tenant requested Landlord's consent. In addition to the installation of such riser(s) or feeder(s), Landlord will also, at the sole cost and expense of Tenant, install other equipment necessary and proper in connection therewith, subject to the aforesaid terms and conditions. All of the aforesaid costs and expenses are chargeable and collectible as Additional Rent, and shall be paid by Tenant to Landlord within thirty (30) days after rendition of any bill to Tenant therefor. Landlord represents that Tenant shall have available for Tenant's use in the Demised Premises up to six (6) watts of electrical energy per usable square foot of the Demised Premises, demand load (including the electrical energy consumed in connection with Tenant's HVAC unit located in the Demised Premises, but excluding base building HVAC consumption and common area electricity consumption).

ARTICLE 16

Heat, Ventilation and Air-Conditioning

16.01 Landlord, at Landlord's expense, shall maintain and operate the heating, ventilating and air-conditioning systems (hereinafter referred to as the "systems") and, subject to energy conservation requirements of any applicable local, State, or Federal public authorities, shall furnish heat, ventilating and air-conditioning in the Demised Premises through the currently existing systems as may be required for reasonably comfortable occupancy of the Demised Premises on [TENANT'S HOURS OF OPERATION]. Air conditioning service shall be provided as aforesaid from May 1 to September 30 of each year during the Term hereof, and heat service shall be provided as aforesaid from October 15 to March 31 of each year during the Term hereof. If Tenant shall require heating, ventilating or air-conditioning service at any other time, Landlord shall furnish such service upon reasonable advance notice from Tenant, and Tenant shall pay on written demand Landlord's cost.

16.02 Use of the Demised Premises, or any part thereof, in a manner exceeding the design conditions (including occupancy and connected electrical load) specified for the systems or rearrangement of partitioning which interferes with normal operation of the heat, ventilation and air-conditioning in the Demised Premises, may require changes in the heat, ventilation and air-conditioning system servicing the Demised Premises. Such changes, so occasioned, shall be made by Tenant, at its expense, as Tenant's Changes pursuant to Article 12. Tenant agrees at all times to cooperate fully with Landlord and to abide by all reasonable

regulations and requirements which Landlord may prescribe for the proper functioning and protection of the heat, air-conditioning and ventilating system.

ARTICLE 17
Landlord's Other Services

17.01 Landlord, at its expense, shall provide elevator service, passenger and freight, by elevators serving the floor(s) on which the Demised Premises are situated. Freight elevators shall be available after-hours, subject to Tenant's payment of expenses reasonably and customarily charged by Landlord in connection with the use thereof.

17.02 Tenant, at its expense, shall cause the Demised Premises to be cleaned in accordance with the then current Building standard cleaning specifications and applicable law and related regulations. The cleaning specifications may be revised by Landlord in its reasonable discretion from time to time, and Landlord shall thereafter promptly provide notice of such revision(s) to Tenant.

17.03 Landlord, at its expense, and on Tenant's request, shall maintain the original listings on the Building directory of the names of Tenant, and the names of any of their officers and employees to the extent space is available for such listings.

17.04 Tenant, at its sole cost and expense, shall be permitted to affix signage to the exterior of the Building. The placement, design and construction of any such signage shall be subject to the consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. All such signage shall, in all ways, comply with law.

17.05 Landlord shall furnish to the Demised Premises adequate hot and cold water for ordinary usage for drinking, lavatory, pantry and normal cleaning purposes at no charge to Tenant.

17.06 Landlord reserves the right, without any liability to Tenant, except as otherwise expressly provided in this Lease, to stop service of any of the heating, ventilating, air conditioning, electric, sanitary, elevator or other Building systems serving the Demised Premises, or the rendition of any of the other services required of Landlord under this Lease, whenever and for so long as may be necessary, by reason of accidents, emergencies, strikes or the making of repairs or changes which Landlord is required by this Lease or by law to make or in good faith deems necessary, by reason of difficulty in securing proper supplies of fuel, steam, water, electricity, labor or supplies, or by reason of any other cause beyond Landlord's reasonable control. Landlord shall promptly commence and diligently and in a workmanlike manner proceed to repair and rebuild any such systems and restore any such services.

ARTICLE 18
Access Change in Building Facilities, Name

18.01 All except the inside surfaces of all walls, windows and doors bounding the Demised Premises (including exterior Building walls, core corridor walls and doors and any core corridor entrance) and any space in or adjacent to the Demised Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other Building

facilities, and the use thereof, as well as access thereto through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are reserved to Landlord. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of the rights reserved to Landlord in this Section 18.01; provided Landlord shall not be required to employ overtime or premium time labor in connection therewith(unless Tenant agrees to pay for such labor) .

18.02 Tenant shall permit Landlord to install, use, replace and maintain pipes, ducts and conduits within the demising walls, bearing columns and ceilings of the Demised Premises. Landlord shall use reasonable efforts to minimize any interference with the conduct of Tenant's business in the Demised Premises which may result from Landlord's exercise of Landlord's rights under this Section 18.02; provided, however, Landlord shall not be required to employ overtime or premium time labor in connection therewith (unless Tenant agrees to pay for such labor). Except in the case of an emergency, Landlord shall give Tenant not less than twenty four (24) hours notice of any such actions.

18.03 Landlord or Landlord's agent shall have the right, upon advance request (except in emergency under clause (ii) hereof) to enter and/or pass through the Demised Premises or any part thereof, at reasonable times during reasonable hours, (i) to examine the Demised Premises and to show them to Lessors of Superior Leases, Mortgagees of Superior Mortgages, or prospective purchasers, mortgagees or lessees of the Building as an entirety, and (ii) for the purpose of making such repairs or changes in or to the Demised Premises or in or to its facilities, as may be provided for by this Lease or as may be mutually agreed upon by the parties or as Landlord may be required to make by law or in order to repair and maintain said structure or its fixtures or facilities. Subject to the provisions of this Article 18, Landlord shall be allowed to take all materials into and upon the Demised Premises that are required for such repairs, changes, repainting or maintenance, without liability to Tenant, provided that such materials shall not be stored in such a way as to unreasonably interfere with Tenant's use of the Demised Premises. Tenant's Landlord shall also have the right to enter on and/or pass through the Demised Premises, or any part thereof, at such times as such entry shall be required by circumstances of emergency affecting the Demised Premises or the Building with such advance notice as is practicable under the circumstances.

18.04 Intentionally Omitted.

18.05 Landlord reserves the right, at any time without incurring any liability to Tenant therefor, to make such changes in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators and stairways thereof, as it may deem necessary or desirable, provided such changes do not (i) unreasonably interfere with the conduct of Tenant's business in the Demised Premises, (ii) materially reduce the square foot area of the Demised Premises, (iii) materially restrict Tenant's access to the Demised Premises or (iv) materially increase any of Tenant's obligations or reduce any of Tenant's rights pursuant to this Lease.

18.06 Landlord may adopt any name for the Building. Landlord reserves the right to change the name or address of the Building.

18.07 For the purposes of Article 18, the term “**Landlord**” shall include Lessors and Mortgagees.

ARTICLE 19
Notice of Accidents

19.01 Tenant shall give notice to Landlord, promptly after Tenant learns thereof, of (i) any accident in or about the Demised Premises for which Landlord might be liable, (ii) all fires in the Demised Premises, (iii) all damages to or defects in the Demised Premises, including the fixtures, equipment and appurtenances thereof, for the repair of which Landlord might be responsible, and (iv) all damage to or defects in any parts or appurtenances of the Building’s sanitary, electrical, heating, ventilating, air-conditioning, elevator and other systems located in or passing through the Demised Premises or any part thereof.

ARTICLE 20
Non-Liability and Indemnification

20.01 Neither Landlord nor any agent or employee of Landlord shall be liable to Tenant for any injury or damage to Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of, any property of Tenant or of any other person, irrespective of the cause of such injury, damage or loss, unless caused by or due to the willful misconduct or negligence of Landlord, its agents or employees occurring within the scope of their respective employments, it being understood that no property, other than such as might normally be brought upon or kept in the Demised Premises as an incident to the reasonable use of the Demised Premises for the purpose herein permitted, will be brought upon or be kept in the Demised Premises.

20.02 Tenant shall indemnify and save harmless Landlord and its agents against and from (a) any and all claims (i) arising from (x) the conduct or management of the Demised Premises or of any business therein, (y) a breach by Tenant of this Lease or (z) any work or thing whatsoever done, or any condition created (other than by Landlord for Tenant’s account) in or about the Demised Premises during the Term of this Lease or during the period of time, if any, prior to the Commencement Date that Tenant may have been given access to the Demised Premises, or (ii) arising from any negligent or intentionally wrongful act or omission of Tenant or any of its subtenants or licensees or its or their employees, agents or contractors, and (b) all costs, expenses and liabilities reasonably incurred in or in connection with each such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall resist and defend such action or proceeding.

20.03 Except as otherwise expressly provided in this Lease, this Lease and the obligations of Tenant hereunder shall not be affected, impaired or excused because Landlord is unable to fulfill, or is delayed in fulfilling, any of its obligations under this Lease by reason of Unavoidable Delay (as defined in Section 21.03).

ARTICLE 21
Destruction or Damage

21.01 If the Building or the Demised Premises shall be partially or totally damaged or destroyed by fire or other cause, then, whether or not the damage or destruction shall have resulted from the fault or neglect of Tenant, or its employees, agents or visitors (and if this Lease shall not have been terminated as in this Article hereinafter provided), Landlord shall repair the damage and restore and rebuild the Building and/or the Demised Premises, at its expense, with reasonable dispatch after notice to it of the damage or destruction; provided, however, that Landlord shall not be required to repair or replace any of Tenant's Property nor to restore any Tenant's Work unless such damage or destruction shall have resulted from the fault or neglect of Landlord.

21.02 If the Building or the Demised Premises shall be partially damaged or partially destroyed by fire or other cause, the Rents payable hereunder shall be abated to the extent that the Demised Premises shall have been rendered untenable and for the period from the date of such damage or destruction to the date the damage shall be repaired or restored. If the Demised Premises or a major part thereof shall be totally (which shall be deemed to include substantially totally) damaged or destroyed or rendered completely (which shall be deemed to include substantially completely) untenable or inaccessible on account of fire or other cause, the Rents shall completely abate as of the date of the damage or destruction and until Landlord shall repair, restore and rebuild the Building and the Demised Premises, provided, however, that should Tenant reoccupy a portion of the Demised Premises during the period the restoration work is taking place and prior to the date that the same are made completely tenantable, Rents allocable to such portion shall be payable by Tenant from the date of such occupancy.

21.03 If the Building or the Demised Premises shall be totally damaged or destroyed by fire or other cause, or if the Building shall be so damaged or destroyed by fire or other cause (whether or not the Demised Premises are damaged or destroyed) as to require a reasonably estimated expenditure of more than forty (40%) percent of the full insurable value of the Building immediately prior to the casualty, then, in either such case Landlord may terminate this Lease by giving Tenant notice to such effect within the shorter of (1) one hundred eighty (180) days after the date of the casualty, or (ii) four (4) months from the date all insurance proceeds payable as a result of such casualty are obtained by Landlord. In case of any damage or destruction mentioned in this Article, Tenant may terminate this Lease, by notice to Landlord, if Landlord has not completed the making of the required repairs and restored and rebuilt the Building and the Demised Premises within six (6) months from the date of such damage or destruction, or within such period after such date (not exceeding four months) as shall equal the aggregate period Landlord may have been delayed in doing so by Unavoidable Delay. "Unavoidable Delay" shall mean any strikes, labor troubles or accident, or by any cause whatsoever beyond Landlord's reasonable control, including legal requirements, governmental preemption in connection with a national emergency, shortages, or unavailability of labor, fuel, steam, water, electricity or materials, Tenant Delay, delays caused by other tenants or other occupants of the Building, acts of God, enemy action, civil commotion, fire or other casualty. Notwithstanding the foregoing, if the Demised Premises are rendered wholly or substantially untenable or inaccessible and, in the reasonable estimation of Landlord's architect and insurance adjustor, the repairs necessary to restore the Demised Premises to a tenantable

condition cannot be completed within six (6) months, then Tenant shall have the right to terminate this Lease within thirty (30) days after Tenant's receipt of Landlord's architect's and insurance adjustor's estimate (which estimate must be given to Tenant promptly after the occurrence of such casualty).

21.04 If the Demised Premises shall be substantially damaged during the last one (1) year of the Term, Landlord or Tenant may elect by notice, given within thirty (30) days after the occurrence of such damage, to terminate this Lease and if either party makes such election, the Term shall expire upon the thirtieth (30th) day after notice of such election is given by such party and Tenant shall vacate the Demised Premises and surrender the same to Landlord.

21.05 No damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Demised Premises or of the Building pursuant to this Article; provided, however, that if Tenant shall be in possession of the Demised Premises or a portion thereof during any period during which repair or restoration activities are being performed pursuant to this Article, Landlord shall use its reasonable efforts to not unreasonably interfere with the conduct of Tenant's business in the Demised Premises or portion thereof occupied by Tenant.

21.06 Notwithstanding any of the foregoing provisions of this Article, if Landlord or the Lessor of any Superior Lease or the Mortgagee of any Superior Mortgage shall be unable to collect all of the insurance proceeds (including rent insurance proceeds) applicable to damage or destruction of the Demised Premises or the Building by fire or other cause, by reason of the intentional misconduct or negligence on the part of Tenant or any of its employees, agents or contractors, then, without prejudice to any other remedies which may be available against Tenant, there shall be no abatement of Tenant's Rents.

21.07 Landlord will not carry insurance of any kind on Tenant's Property or Tenant's Work, and, except as required by the terms of this Lease or provided by law or by reason of its fault or its breach of any of its obligations hereunder, shall not be obligated to repair any damage thereto or replace the same.

21.08 The provisions of this Article shall be considered an express agreement governing any case of damage or destruction of the Demised Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

ARTICLE 22 **Eminent Domain**

22.01 If the whole of the Building shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose, this Lease and the Term and estate hereby granted shall forthwith terminate as of the date of vesting of title in such taking (which date is hereinafter also referred to as the "**date of the taking**"), and the Rents shall be prorated and adjusted as of such date.

22.02 If only a part of the Building shall be so taken, this Lease shall be unaffected by such taking, except that Tenant may elect to terminate this Lease in the event of a partial taking, if the remaining area of the Demised Premises shall not be reasonably sufficient for Tenant to continue normal operation of its business, or if access to the Demised Premises shall be taken. Tenant shall give notice of such election to Landlord not later than thirty (30) days after (i) notice of such taking is given by Landlord to Tenant, or (ii) the date of such taking, whichever occurs sooner. Upon the giving of such notice by Tenant this Lease shall terminate on the date of such taking and the Rents shall be prorated as of such termination date. Upon such partial taking and this Lease continuing in force as to any part of the Demised Premises, the Rents apportioned to the part taken shall be prorated and adjusted as of the date of taking and from such date the Fixed Rent for the Demised Premises and Additional Rent shall be payable pursuant to Article 5 according to the rentable area remaining.

22.03 Landlord shall be entitled to receive the entire award in any proceeding with respect to any taking provided for in this Article without deduction therefrom for any estate vested in Tenant by this Lease and Tenant shall receive no part of such award, except as hereinafter expressly provided in this Article. Tenant hereby expressly assigns to Landlord all of its right, title and interest in or to every such award. Notwithstanding anything herein to the contrary, Tenant may, at its sole cost and expense, make a claim with the condemning authority for Tenant's moving expenses, the value of Tenant's fixtures or Tenant's Changes which do not become part of the Building or property of the Landlord, provided however that Landlord's award is not thereby reduced or otherwise adversely affected.

22.04 If the temporary use or occupancy of all or any part of the Demised Premises shall be lawfully taken by condemnation or in any other manner for any public or quasi-public use or purpose during the Term of this Lease, Tenant shall be entitled, except as hereinafter set forth, to receive that portion of the award for such taking which represents compensation for the use and occupancy of the Demised Premises and, if so awarded, for the taking of Tenant's Property and for moving expenses, and Landlord shall be entitled to receive that portion which represents reimbursement for the cost of restoration of the Demised Premises. This Lease shall be and remain unaffected by such taking and Tenant shall continue responsible for all of its obligations hereunder insofar as such obligations are not affected by such taking and shall continue to pay in full the Fixed Rent and Additional Rent when due, provided that Tenant may, at its option, terminate this Lease if such temporary taking shall occur within six (6) months of the end of the Term. If the period of temporary use or occupancy shall extend beyond the Expiration Date, that part of the award which represents compensation for the use or occupancy of the Demised Premises (or a part thereof) shall be divided between Landlord and Tenant so that Tenant shall receive so much thereof as represents the period prior to the Expiration Date and Landlord shall receive so much thereof as represents the period subsequent to the Expiration Date. All moneys received by Tenant as, or as part of, an award for temporary use and occupancy for a period beyond the date to which the Rents hereunder have been paid by Tenant shall be received, held and applied by Tenant as a trust fund for payment of the Rents falling due hereunder.

22.05 In the event of any taking of less than the whole of the Building which does not result in a termination of this Lease, or in the event of a taking for a temporary use or occupancy of all or any part of the Demised Premises which does not result in a termination or

extend beyond the Expiration Date, Landlord, at its expense, and to the extent any award or awards shall be sufficient for the purpose, shall proceed with reasonable diligence to repair, alter and restore the remaining parts of the Building and the Demised Premises to substantially their former condition to the extent that the same may be feasible and so as to constitute a complete and tenantable Building and Demised Premises.

22.06 Should any part of the Demised Premises be taken to effect compliance with any law or requirement of public authority other than in the manner hereinabove provided in this Article, then (i) if such compliance is the obligation of Tenant under this Lease, Tenant shall not be entitled to any diminution or abatement of Rent or other compensation from Landlord therefor, but (ii) if such compliance is the obligation of Landlord under this Lease, the Fixed Rent hereunder shall be reduced and Additional Rents under Article 4 shall be adjusted in the same manner as is provided in Section 22.02 according to the reduction in rentable area of the Demised Premises resulting from such taking.

22.07 Any dispute which may arise between the parties with respect to the meaning or application of any of the provisions of this Article shall be determined by arbitration in the manner provided in Article 33.

ARTICLE 23

Surrender

23.01 On the last day of the Term, or on any earlier termination of this Lease, or upon any re-entry by Landlord upon the Demised Premises, Tenant shall quit and surrender the Demised Premises to Landlord in good order, condition and repair, except for ordinary wear and tear or casualty not the responsibility of Tenant hereunder and Tenant shall remove all of Tenant's Property therefrom except as otherwise expressly provided in this Lease and shall restore the Demised Premises wherever such removal results in damage thereto.

23.02 Any holding over or continued occupancy of the Demised Premises by Tenant after the Expiration Date shall not operate to extend or renew this Lease or to imply or create a new lease between Landlord and Tenant. In such event, Landlord shall have the right to immediately terminate Tenant's occupancy of the Demised Premises, or to treat Tenant's occupancy as a month-to-month tenancy, in which event Tenant shall continue to perform all of Tenant's obligations under this Lease as shall be in effect immediately prior to the expiration or date of earlier termination of this Lease; provided, however, during such period of holding over or continued occupancy Tenant shall pay to Landlord on the first day of each month during such period of Tenant's use and occupancy of the Demised Premises, the sum of (i) two times the Fixed Rent, plus (ii) all items of Additional Rent, payable to Landlord hereunder on the first day of the calendar month immediately preceding the month in which the expiration or early termination of this Lease shall occur ("**Hold Over Rent**"). Additionally, if Tenant shall (i) fail to enter into the Ground Lease in accordance with Terms of Ground Lease of Annex Building attached hereto as Exhibit C, (ii) fail to complete the renovations to the annex building (including obtaining a temporary certificate of occupancy for the entire annex building and excluding only typical punchlist items) one (1) year after the effective date of the Ground Lease or (iii) Tenant defaults under the terms of the Ground Lease, Tenant shall pay Hold Over Rent for the duration of the Term commencing on the date that Tenant receives notice of the occurrence of (i), (ii) or

(iii) as set forth in this sentence. In no event however, shall Tenant be relieved of any liability to Landlord for damages resulting from such holding over. Tenant agrees to indemnify and hold Landlord harmless from and against any costs, losses, damages and expenses suffered or incurred by Landlord as a result of Tenant's holding over or continued occupancy of the Demised Premises beyond the date of expiration earlier termination of this Lease, including, but not limited to such damages as Landlord may suffer as a result of its inability to lease the Demised Premises or any part thereof to a new tenant following the Expiration Date solely by reason of Tenant's holding over as provided herein.

ARTICLE 24
Conditions of Limitation

24.01 To the extent permitted by applicable law this Lease and the Term and estate hereby granted are subject to the limitation that whenever Tenant shall make an assignment of the property of Tenant for the benefit of creditors, or shall file a voluntary petition under any bankruptcy or insolvency law, or an involuntary petition alleging an act of bankruptcy or insolvency shall be filed against Tenant under any bankruptcy or insolvency law, or whenever a petition shall be filed or against Tenant under the reorganization provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a petition shall be filed by Tenant under the arrangement provisions of the United States Bankruptcy Act or under the provisions of any law of like import, or whenever a permanent receiver of Tenant or of or for the property of Tenant shall be appointed, then, Landlord, (a) at any time after receipt of notice of the occurrence of any such event, or (b) if such event occurs without the acquiescence of Tenant, at any time after the event continues for one hundred twenty (120) days, Landlord may give Tenant a notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of service of such notice of intention, and upon the expiration of said five (5) day period this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages' as provided in Article 26.

24.02 This Lease and the Term and estate hereby granted are subject to the further limitation that:

(a) whenever Tenant shall default in the payment of any installment of Fixed Rent, or in the payment of any Additional Rent or any other charge payable by Tenant to Landlord, on any day upon which the same ought to be paid, and such default shall continue for five (5) business days after Landlord shall have given Tenant a notice specifying such default;

(b) whenever Tenant shall do or permit anything to be done, whether by action or inaction, contrary to any of Tenant's obligations hereunder, and if such situation shall continue and shall not be remedied by Tenant within thirty (30) days after Landlord shall have given to Tenant a notice specifying the same, or, in the case of a happening or default which cannot with due diligence be cured within a period of thirty (30) days and the continuance of which for the period required for cure will not subject Landlord to the risk of criminal liability (as more particularly described in Section 9.02) or termination of any Superior Lease or foreclosure of any Superior Mortgage, if Tenant shall not, (i) within said thirty (30) day period advise Landlord of Tenant's intention to duly institute all steps necessary to remedy such

situation, (ii) duly institute within said thirty (30) day period, and thereafter diligently prosecute to completion all steps necessary to remedy the same and (iii) complete such remedy within such time after the date of the giving of said notice of Landlord as shall reasonably be necessary, but in no event longer than ninety (90) days;

(c) whenever Landlord or Tenant shall have received notice of a violation of any local, State, or Federal law or regulation from any public authority resulting from a failure by Tenant to comply with such law or regulation and shall have failed to remedy the same within sixty (60) days after the date thereof;

(d) whenever any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term hereof would, by operation of law or otherwise, devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted by Article 8; or

(e) whenever Tenant shall be in default in the observance or performance of its obligations under any other lease for space in the Building, then in any of the cases set forth in this Section 24.02, Landlord may give to Tenant a notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of the service of such notice of intention, and upon the expiration of said five (5) days this Lease and the Term and estate hereby granted, whether or not the Term shall theretofore have commenced, shall terminate with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 26.

ARTICLE 25

Re-Entry by Landlord

25.01 If Tenant shall default in the payment of any installment of Fixed Rent, or of any Additional Rent, on any date upon which the same ought to be paid, and if such default shall continue for five (5) business days after Landlord shall have given to Tenant a notice specifying such default, or if this Lease shall expire as provided herein, Landlord or Landlord's agents and employees may immediately or at any time thereafter re-enter the Demised Premises, or any part thereof, in the name of the whole, either by summary dispossession proceedings or by any suitable action or proceeding at law, or by any other legal means, without being liable to indictment, prosecution or damages therefor (except to the extent resulting from Landlord's negligence or willful misconduct), and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Demised Premises again as and of its first estate and interest therein. The word re-enter, as herein used, is not restricted to its technical legal meaning. In the event of any termination of this Lease under the provisions of this Lease or if Landlord shall re-enter the Demised Premises under the provisions of this Article or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall thereupon pay to Landlord the Fixed Rent and Additional Rent payable by Tenant to Landlord up to the time of such termination of this Lease, or of such recovery of possession of the Demised Premises by Landlord, as the case may be, and shall also pay to Landlord damages as provided in Article 26.

25.02 In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right of injunction. The special remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may lawfully be entitled at any time and Landlord may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein. In the event of a breach or threatened breach by Landlord of any of its obligations under this Lease, Tenant shall have the right of injunction in addition to any other remedy which may be available to Tenant hereunder, allowed at law or in equity. The remedies to which Tenant may resort hereunder are cumulative and are not intended to be exclusive of any other remedies to which Tenant may lawfully be entitled at any time and Tenant may invoke any remedy allowed at law or in equity as if specific remedies were not provided for herein.

25.03 If this Lease shall terminate under the provisions hereof, or if Landlord shall re-enter the Demised Premises under the provisions of this Article, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all moneys, if any, paid by Tenant to Landlord, whether as advance Rent, security or otherwise, but such moneys shall be credited by Landlord against any Fixed Rent or Additional Rent due from Tenant at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant under Article 26 or pursuant to law.

ARTICLE 26

Damages

26.01 If this Lease is terminated under the provisions of this Lease, or if Landlord shall re-enter the Demised Premises under the provisions of Article 25, or in the event of the termination of this Lease, or of re-entry, by or under any summary dispossession or other proceeding or action or any provision of law by reason of default hereunder on the part of Tenant, Tenant shall pay to Landlord as damages, at the election of Landlord, either:

(a) A sum which at the time of such termination of this Lease or at the time of any such re-entry by Landlord, as the case may be, represents the then discounted present value of the excess, if any, of

(1) the aggregate of the Fixed Rent and the Additional Rent payable hereunder which would have been payable by Tenant (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination) for the period commencing with such earlier termination of this Lease or the date of any such re-entry, as the case may be, and ending with the Expiration Date, had this Lease not so terminated or had Landlord not so re-entered the Demised Premises, over

(2) The aggregate rental value of the Demised Premises for the same period, or

(b) sums equal to the Fixed Rent and the Additional Rent (as above presumed) payable hereunder which would have been payable by Tenant had this Lease not so terminated, or had Landlord not so re-entered the Demised Premises, payable upon the due dates therefor specified herein following such termination or such re-entry and until the Expiration Date, provided, however, that if Landlord shall relet the Demised Premises during said period, or receive any other income or consideration in connection with the use or occupancy of the Demised Premises, Landlord shall credit Tenant with the net rents received by Landlord from such reletting (or the net amounts of such other income or consideration), such net rents and other amounts to be determined by first deducting from the gross rents and other amounts as and when received by Landlord the reasonable and actual expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Demised Premises and in securing possession thereof, as well as the reasonable and actual expenses of reletting, including altering and preparing the Demised Premises for new tenants, brokers' commissions, and all other customary and reasonable expenses properly chargeable against the Demised Premises and the rental therefrom; it being understood that any such reletting may be for a period shorter or longer than the remaining Term; but in no event shall Tenant be entitled to receive any excess of such net rents over the sums payable by Tenant to Landlord hereunder, nor shall Tenant be entitled in any suit for the collection of damages pursuant to this Subsection to a credit in respect of any net rents from a reletting or any net amounts of such other income or consideration, except to the extent that such net rents or other amounts are actually received by Landlord. If the Demised Premises or any part thereof should be relet in combination with other space, then proper apportionment on a rentable square foot basis (for equivalent space) shall be made of the rent received from such reletting and of the expenses of reletting.

If the Demised Premises or any part thereof be relet by Landlord for the unexpired portion of the Term, or any part thereof, before presentation of proof of such damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall, prima facie, be the fair and reasonable rental value for the Demised Premises, or part thereof, so relet during the term of the reletting, provided that such reletting shall constitute a bona-fide arm's-length third party transaction.

26.02 Suit or suits for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term of this Lease would have expired if it had not been so terminated under the provisions of this Lease, or under any provision of law, or had Landlord not re-entered the Demised Premises. Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder on the part of Tenant. Nothing herein contained shall be construed to limit or prejudice the right of Landlord to prove for and obtain as liquidated damages by reason of the termination of this Lease or re-entry on the Demised Premises for the default of Tenant under this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved whether or not such amount be greater, equal to, or less than any of the sums referred to in Section 26.01.

ARTICLE 27

Waivers

27.01 Tenant, for Tenant, and on behalf of any and all persons claiming through or under Tenant, including creditors of all kinds, does hereby waive and surrender all right and privilege which they or any of them might have under or by reason of any present or future law, to redeem the Demised Premises or to have a continuance of this Lease for the Term hereby demised after being dispossessed or ejected therefrom by process of law or under the terms of this Lease or after the termination of this Lease as herein provided.

27.02 In the event that Tenant is in arrears in payment of Fixed Rent or Additional Rent hereunder after notice and the expiration of the applicable cure periods, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited, and Tenant agrees that Landlord may apply any payments made by Tenant to any items it sees fit, irrespective of and notwithstanding any designation or request by Tenant as to the items against which any such payments shall be credited.

27.03 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Demised Premises, including any claim of injury or damage, or any emergency or other statutory remedy with respect thereto.

27.04 The provisions of Articles 16 and 17 shall be considered expressed agreements governing the services to be furnished by Landlord, and Tenant agrees that any laws and/or requirements of public authorities, now or hereafter in force, shall have no application in connection with any enlargement of Landlord's obligations with respect to such services unless Tenant agrees, in writing, to pay to Landlord, as Additional Rent, Landlord's reasonable charges for any additional services provided.

ARTICLE 28

No Other Waivers or Modifications

28.01 The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the same shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. No executory agreement hereafter made between Landlord and Tenant shall be effective to change, modify, waive, release, discharge, terminate or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing, refers expressly to this Lease and is signed by the party against whom enforcement of the change, modification, waiver, release, discharge or termination or effectuation of the abandonment is sought.

28.02 The following specific provisions of this Section shall not be deemed to limit the generality of any of the foregoing provisions of this Article:

(a) No agreement to accept a surrender of all or any part of the Demised Premises shall be valid unless in writing and signed by Landlord. The delivery of keys to an employee of Landlord or of its agent shall not operate as a termination of this Lease or a surrender of the Demised Premises. If Tenant shall at any time request Landlord to sublet the Demised Premises for Tenant's account, Landlord or its agent is authorized to receive said keys for such purposes without releasing Tenant from any of its obligations under this Lease, and Tenant hereby releases Landlord from any liability for loss or damage to any of Tenant's property in connection with such subletting, except to the extent resulting from Landlord's negligence or willful misconduct.

(b) The receipt by Landlord of Rent with knowledge of breach of any obligation of this Lease shall not be deemed a waiver of such breach.

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

ARTICLE 29

Curing Tenant's Defaults, Additional Rent

29.01 (a) If Tenant shall default in the performance of any of Tenant's obligations under this Lease, Landlord, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the reasonable expense of Tenant, without notice, in a case of emergency, and in any other case, only if such default continues after the expiration of (i) five (5) business days from the date Landlord gives Tenant notice of intention so to do, or (ii) the applicable grace period provided in Section 24.02 or elsewhere in this Lease for cure of such default, whichever occurs later;

(b) if Tenant is late in making any payment due to Landlord from Landlord under this Lease for more than five (5) days, then interest shall become due and owing to Landlord on such payment from the date when it was due computed at the following rates:

(i) For an individual or partnership tenant, computed at the maximum legal rate of interest;

(ii) for a corporate tenant, computed at three (3%) percent per annum over the then prime rate of Citibank, N.A., or its successor, but in no event in excess of the maximum legal rate of interest chargeable to corporations in the State of New York.

29.02 Bills for any reasonable out-of-pocket expenses incurred by Landlord in connection with any such performance by it for the account of Tenant, and bills for all reasonable out-of-pocket costs, expenses and disbursements of every kind and nature whatsoever, including reasonable counsel fees, involved in collecting or endeavoring to collect the Fixed Rent or Additional Rent or any part thereof or enforcing or endeavoring to enforce any rights against Tenant, under or in connection with this Lease, or pursuant to law, including any such cost,

expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished, or rendered, by Landlord or at its instance to Tenant, may be sent by Landlord to Tenant monthly, or immediately, at Landlord's option, and such amounts shall be due and payable in accordance with the terms of such bills, but not sooner than thirty (30) days after the rendering of such bills, together with reasonable documentation with respect to such expenses. Notwithstanding anything to the contrary contained in this Section, Tenant shall have no obligation to pay the costs, expenses or disbursements of Landlord in any proceeding in which there shall have been rendered a final judgment against Landlord, and the time for appealing such final judgment shall have expired (the "**Appeal Deadline**") and, within thirty (30) days following the Appeal Deadline, Landlord shall reimburse to Tenant any amounts on account thereof that were previously paid by Tenant to any such party together with interest thereon at the Base Rate calculated from the date such amounts were paid by Tenant until the date on which Tenant is so reimbursed in full

ARTICLE 30
Brokers

30.01 Landlord and Tenant covenant, warrant and represent to each other that there were no brokers or finders (the "**Brokers**") instrumental in consummating this Lease and that no conversations or negotiations were had with any Brokers concerning the renting of the Demised Premises. Landlord and Tenant each agree to indemnify and hold the other party harmless from and against any claims or suits for a brokerage commission or finder's fee arising out of any conversations or negotiations had by the indemnifying party, as the case may be, with any Brokers.

ARTICLE 31
Notices

31.01 In order for the same to be effective, each and every notice, request or demand permitted or required to be given by the terms and provisions of this Lease, or by any laws and/or requirements of public authorities, either by Landlord to Tenant or by Tenant to Landlord (any of the foregoing being referred to in this Article 31 as a "**Notice**"), shall be given in writing, in the manner provided in this Section 31.01, unless expressly provided otherwise elsewhere in this Lease. All Notices shall be delivered by hand or by a nationally recognized overnight courier, and shall be deemed to have been delivered on the date of receipt thereof (or the date that such receipt is refused, if applicable). In the case of Notices given by Landlord to Tenant, any such Notice shall be addressed to Tenant at the following address: _____ to the attention of _____, with a copy to _____, Attention: _____. In the case of Notices given by Tenant to Landlord, any such Notice shall be addressed to Landlord as follows: 1879 Madison Avenue, New York, New York 10035, Attn: _____, with a copy to: Windels Marx Lane & Mittendorf, LLP, 156 West 56th Street, New York, New York 10019, Attention: Charles E. Simpson, and with copies thereof delivered as aforesaid to any additional parties designated in accordance with Section 6.02. Either party may, by notice as aforesaid, designate a different address or addresses for Notices.

31.02 Notices may be given on behalf of Landlord by Windels Marx Lane & Mittendorf, LLP and on behalf of Tenant by Manatt, Phelps & Phillips, LLP.

ARTICLE 32

Estoppel Certificate, Memorandum

32.01 (a) Tenant agrees, at any time and from time to time, as requested by Landlord, upon not less than ten (10) business days' prior notice, to execute and deliver to Landlord a statement certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, (b) certifying the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Landlord is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Landlord may be dealing.

(b) Landlord agrees, at any time and from time to time, as requested by Tenant, upon not less than ten (10) business days' prior notice, to execute and deliver to Tenant a statement certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and whether any options granted to Tenant pursuant to the provisions of this Lease have been exercised, and (ii) the dates to which the Fixed Rent and Additional Rent have been paid and the amounts thereof, and stating whether or not, to the best knowledge of the signer, Tenant is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by others with whom the Tenant may be dealing.

ARTICLE 33

Arbitration

33.01 Either party may request arbitration of any matter in dispute wherein arbitration is expressly provided in this Lease as the appropriate remedy. The party requesting arbitration shall do so by giving notice to that effect to the other party, and both parties shall promptly thereafter jointly apply to the American Arbitration Association (or any organization successor thereto) in the City and County of New York for the appointment of a single arbitrator.

33.02 The arbitration shall be conducted in accordance with the then prevailing rules of the American Arbitration Association (or any organization successor thereto) in the City and County of New York. In rendering such decision and award, the arbitrator shall not add to, subtract from or otherwise modify the provisions of this Lease.

33.03 If for any reason whatsoever a written decision and award of the arbitrator shall not be rendered within sixty (60) days after the appointment of such arbitrator, then at any time thereafter before such decision and award shall have been rendered either party

may apply to the Supreme Court of the State of New York or to any other court having jurisdiction and exercising the functions similar to those now exercised by such court, by action, proceeding or otherwise (but not by a new arbitration proceeding) as may be proper to determine the question in dispute consistently with the provisions of this Lease.

33.04 The expenses of the arbitration shall be borne by the party that is not the prevailing party, except that each party shall be responsible for the fees and expenses of its own counsel.

ARTICLE 34

No Other Representations; Construction; Governing Law; Consents; Lease Not Binding Unless Executed and Delivered; No Recording

34.01 Tenant expressly acknowledges and agrees that Landlord has not made and is not making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Lease or in any other written agreement which may be made between the parties concurrently with the execution and delivery of this Lease and shall expressly refer to this Lease. This Lease and said other written agreement(s) made concurrently herewith are hereinafter referred to as the “lease documents”. It is understood and agreed that all understandings and agreements heretofore had between the parties are merged in the lease documents, which alone fully and completely express their agreements and that the same are entered into after full investigation, neither party relying upon any statement or representation not embodied in the lease documents, made by the other. Tenant and Landlord each represent that is has the right, power and authority to enter into this Lease, and that the party executing this Lease on such party’s behalf has due authority, and no third party consent is required in connection therewith.

34.02 If any of the provisions of this Lease, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

34.03 This Lease shall be governed in all respects by the laws of the State of New York.

34.04 Wherever in this Lease Landlord’s consent or approval is required, if Landlord shall refuse such consent or approval, Tenant in no event shall be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant’s sole remedy shall be an action or proceeding to enforce any such provision, for specific performance, injunction or declaratory judgment.

34.05 Submission of this Lease for execution shall confer no rights nor impose any obligations on either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties.

34.06 Tenant covenants and agrees that it shall not place of record this Lease or a memorandum thereof and that the placement of record of this Lease or a memorandum thereof by Tenant shall constitute the breach by Tenant of a material covenant of this Lease.

34.07 Tenant, at Tenant's sole cost and expense, shall have the right to install a sign on the entrance doors to the Demised Premises, which sign (the content, location and materials of which) shall be subject to the terms hereof, and Landlord's prior consent, not to be unreasonably withheld or delayed.

ARTICLE 35 **Parties Bound**

35.01 The obligations of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 8 shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 24. However, the obligations of Landlord under this Lease shall not be binding upon Landlord herein named with respect to any period subsequent to the transfer of its interest in the Building as owner or lessee thereof and in event of such transfer said obligations shall thereafter be binding upon each transferee of the interest of Landlord herein named as such owner or lessee of the Building, but only with respect to the period ending with a subsequent transfer within the meaning of this Article.

35.02 If Landlord shall be an individual, joint venture, tenancy in common, co-partnership, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Tenant shall look only to such Landlord's estate and property in the Building, any insurance or condemnation proceeds with respect thereto, the sales proceeds thereof, and, where expressly so provided in this Lease, to offset against the Rents payable under this Lease, for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of such Landlord or any partner, member, officer or director thereof, disclosed or undisclosed shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord's and Tenant hereunder or Tenant's use or occupancy of the Demised Premises.

ARTICLE 36 **Certain Definitions and Construction**

36.01 For the purposes of this Lease and all agreements supplemental to this Lease, unless the context otherwise requires the definitions set forth in the Exhibits annexed hereto shall be utilized.

36.02 The various terms which are italicized and defined in other Articles of this Lease or are defined in Exhibits annexed hereto, shall have the meanings specified in such other Articles and such Exhibits for all purposes of this Lease and all agreements supplemental thereto, unless the context shall otherwise require.

ARTICLE 37
Adjacent Excavation—Shoring

37.01 If an excavation or other substructure work shall be made upon land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Demised Premises for the purpose of doing such work as shall be necessary to preserve the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement or Rent. In the event that Landlord or its employees or contractors shall perform or cause to be performed such work, Landlord shall use reasonable efforts to cause the foregoing to be performed in such a manner as to minimize interference with Tenant's operation of its business in the Demised Premises

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

LANDLORD:

North General Hospital,
a New York not-for-profit corporation

By: _____
Name:
Title:

TENANT:

Institute for Family Health, Inc.,
a New York not-for-profit corporation

By: _____
Name:
Title:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

EXHIBIT B

DEMISED PREMISES

EXHIBIT C

TERMS OF GROUND LEASE OF ANNEX BUILDING

EXHIBIT D

TENANT ELECTRICAL EQUIPMENT

STANDARD FORM OF OFFICE LEASE
The Real Estate Board of New York, Inc.

3/1/90

Agreement of Lease, made as of this 1st day of August 2002, between MAPLE PLAZA HOUSING DEVELOPMENT FUND CORPORATION, a New York corporation having an address at 1919 Madison Avenue, New York, New York 10035

party of the first part, hereinafter referred to as OWNER, and RALPH LAUREN CENTER FOR CANCER PREVENTION FOUNDATION

party of the second part, hereinafter referred to as TENANT, Owner hereby leases to Tenant and Tenant hereby hires from Owner a portion of the first floor non-hatched on the plan attached hereto as Exhibit "A".

in the building known as 1919 Madison Avenue, New York, New York (the "Building") in the Borough of Manhattan, City of New York, for the term of ten (10) years as set forth Article 40 of the Rider attached hereto at an annual fixed rent (the "Fixed Rent") as set forth in Schedule "A" annexed hereto, together with payment of such other charges (hereinafter referred to as "Additional Rent") consisting of all other sums of money as shall become due and payable by Tenant to Owner under this Lease (the Fixed Rent and Additional Rent are referred to from time to time in this Lease collectively as "Rent").

as provided in Article 41 of the Rider.

which Tenant agrees to pay in lawful money of the United States which shall be legal tender in payment of all debts and dues, public and private, at the time of payment, in equal monthly installments in advance on the first day of each month during said term, at the office of Owner or such other place as Owner may designate, without any set off or deduction whatsoever, except that Tenant shall pay the first monthly installment(s) on the execution hereof (unless this lease be a renewal).

In the event that, at the commencement of the term of this lease, or thereafter, Tenant shall be in default in the payment of rent to Owner pursuant to the terms of another lease with Owner or with Owner's predecessor in interest, Owner may at Owner's option and without notice to Tenant add the amount of such arrears to any monthly installment of rent payable hereunder and the same shall be payable to Owner as additional rent.

The parties hereto, for themselves, their heirs, distributees, executors, administrators, legal representatives, successors and assigns, hereby covenant as follows:

- Rent 1. Tenant shall pay the rent as above and as hereinafter provided.
- Occupancy 2. Tenant shall use and occupy demised premises for the uses described in Article 42.

and for no other purpose.

- Alterations 3. Tenant shall make no changes in or to the demised premises of any nature without Owner's prior written consent. Subject to the prior written consent of Owner, and to the provisions of this article, Tenant at Tenant's expense, may make alterations, installations, additions or improvements which are non-structural and which do not affect utility services or plumbing and electrical lines; in or to the interior of the demised premises by using contractors or mechanics first approved by Owner. Tenant shall, before making any alterations, additions, installations or improvements, at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to Owner and Tenant agrees to carry and will cause Tenant's contractors and sub-contractors to carry such workman's compensation, general liability, personal and property damage insurance as Owner may require. If any mechanic's lien is filed against the demised premises, or the building of which the same forms a part, for work claimed to have been done for, or materials furnished to, Tenant, whether or not done pursuant to this article, the same shall be discharged by Tenant within thirty days thereafter, at Tenant's expense, by filing the bond required by law. All fixtures and all paneling, partitions, railings and like installations, installed in the premises at any time, either by Tenant or by Owner in Tenant's behalf, shall, upon installation, become the property of Owner and shall remain upon and be surrendered with the demised premises unless Owner, by notice to Tenant, at least ten (10) days prior to the date fixed as the termination of this lease, elects to relinquish Owner's right thereto and to have them removed by Tenant, in which event the same shall be removed from the premises by Tenant, at the expiration of the lease at Tenant's expense. Nothing in this Article shall be construed to give Owner title to or to prevent Tenant's removal of trade fixtures, moveable office furniture and equipment, but upon removal of any such from the premises or upon removal of other installations as may be required by Owner, Tenant shall immediately and at its expense, repair and restore the premises to the condition existing prior to installation and repair any damage to the demised premises or the building due to such removal. All property permitted or required to be removed, by Tenant at the end of the term remaining in the premises after Tenant's removal shall be deemed abandoned and may, at the election of Owner, either be retained as Owner's property or may be removed from the premises by Owner, at Tenant's expense.
- Alterations 4. Tenant shall make no changes in or to the demised premises of any nature without Owner's prior written consent. Subject to the prior written consent of Owner, and to the provisions of this article, Tenant at Tenant's expense, may make alterations, installations, additions or improvements which are non-structural and which do not affect utility services or plumbing and electrical lines; in or to the interior of the demised premises by using contractors or mechanics first approved by Owner. Tenant shall, before making any alterations, additions, installations or improvements, at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to Owner and Tenant agrees to carry and will cause Tenant's contractors and sub-contractors to carry such workman's compensation, general liability, personal and property damage insurance as Owner may require. If any mechanic's lien is filed against the demised premises, or the building of which the same forms a part, for work claimed to have been done for, or materials furnished to, Tenant, whether or not done pursuant to this article, the same shall be discharged by Tenant within thirty days thereafter, at Tenant's expense, by filing the bond required by law. All fixtures and all paneling, partitions, railings and like installations, installed in the premises at any time, either by Tenant or by Owner in Tenant's behalf, shall, upon installation, become the property of Owner and shall remain upon and be surrendered with the demised premises unless Owner, by notice to Tenant, at least ten (10) days prior to the date fixed as the termination of this lease, elects to relinquish Owner's right thereto and to have them removed by Tenant, in which event the same shall be removed from the premises by Tenant, at the expiration of the lease at Tenant's expense. Nothing in this Article shall be construed to give Owner title to or to prevent Tenant's removal of trade fixtures, moveable office furniture and equipment, but upon removal of any such from the premises or upon removal of other installations as may be required by Owner, Tenant shall immediately and at its expense, repair and restore the premises to the condition existing prior to installation and repair any damage to the demised premises or the building due to such removal. All property permitted or required to be removed, by Tenant at the end of the term remaining in the premises after Tenant's removal shall be deemed abandoned and may, at the election of Owner, either be retained as Owner's property or may be removed from the premises by Owner, at Tenant's expense.
- Maintenance and Repairs 4. Tenant shall, throughout the term of this lease, take good care of the demised premises and the fixtures and the appurtenances therein. Tenant shall be responsible for all damage or injury to the demised premises or any other part of the building and the systems and equipment thereof, whether requiring structural or nonstructural repairs caused by or resulting from carelessness, omission, neglect or improper conduct of Tenant, Tenant's subtenants, agents, employees, invitees or licensees, or which arise out of any work, labor, service or equipment done for or supplied to Tenant or any subtenant or arising out of the installation, use or operation of the property or equipment of Tenant or any subtenant. Tenant shall also repair all damage to the building and the demised premises caused by the moving of Tenant's fixtures, furniture and equipment. Tenant shall promptly make, at Tenant's expense, all repairs in and to the demised premises for which Tenant is responsible using only the contractor for the trade or trades in question, selected from a list of at least two contractors per trade submitted by Owner. Any other repairs in or to the building or the facilities and systems thereof for which Tenant is responsible shall be performed by Owner at the Tenant's expense. Owner shall maintain in good working order and repair the exterior and the structural portions of the building, including the structural portions of its demised premises, and the public portions of the building interior and the building plumbing, electrical, heating and ventilating systems (to the extent such systems presently exist) serving the demised premises. Tenant agrees to give prompt notice of any defective condition in the premises for which Owner may be responsible hereunder. There shall be no allowance to Tenant for diminution of rental value and no liability on the part of Owner by reason of inconvenience, annoyance or injury to business arising from Owner or others making repairs, alterations, additions or improvements in or to any portion of the building or the demised premises or in and to the fixtures, appurtenances or equipment thereof. It is specifically agreed that Tenant shall not be entitled to any setoff or reduction of rent by reason of any failure of Owner to comply with the covenants of this or any other article of this Lease. Tenant agrees that Tenant's sole remedy at law in such instance will be by way of an action for damages for breach of contract. The provisions of this Article 4 shall not apply in the case of fire or other casualty which are dealt with in Article 9 hereof.
- Window Cleaning 5. Tenant will not clean nor require, permit, suffer or allow any window in the demised premises to be cleaned from the outside in violation of Section 202 of the Labor Law or any other applicable law or of the Rules of the Board of Standards and Appeals, or of any other Board or body having or asserting jurisdiction.
- Requirements of Law, Fire Insurance, Floor Loads 6. Prior to the commencement of the lease term, if Tenant is then in possession, and at all times thereafter, Tenant, at Tenant's sole cost and expense, shall promptly comply with all present and future laws, orders and regulations of all state, federal, municipal and local governments, departments, commissions and boards and any direction of any public officer pursuant to law, and all orders, rules and regulations of the New York Board of Fire Underwriters, Insurance Services Office, or any similar body which shall impose any violation, order or duty upon Owner or Tenant with respect to the demised premises, whether or not arising out of Tenant's use or manner of use thereof, (including Tenant's permitted use) or, with respect to the building if arising out of Tenant's

USE OF

8 ~~use of~~ manner of use of the premises or the building (including the use permitted under the lease). Nothing herein shall require Tenant to make structural repairs or alterations unless Tenant has, by its manner of use of the demised premises or method of operation therein, violated any such laws, ordinances, orders, rules, regulations or requirements with respect thereto. Tenant may, after securing Owner to Owner's satisfaction against all damages, interest, penalties and expenses, including, but not limited to, reasonable attorney's fees, by cash deposit or by surety bond in an amount and in a company satisfactory to Owner, contest and appeal any such laws, ordinances, orders, rules, regulations or requirements provided same is done with all reasonable promptness and provided such appeal shall not subject Owner to prosecution for a criminal offense or constitute a default under any lease or mortgage under which Owner may be obligated, or cause the demised premises or any part thereof to be condemned or vacated. Tenant shall not do or permit any act or thing to be done in or to the demised premises which is contrary to law, or which will invalidate or be in conflict with public liability, fire or other policies of insurance at any time carried by or for the benefit of Owner with respect to the demised premises or the building of which the demised premises form a part, or which shall or might subject Owner to any liability or responsibility to any person or for property damage. Tenant shall not keep anything in the demised premises except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization or other authority having jurisdiction, and then only in such manner and such quantity so as not to increase the rate for fire insurance applicable to the building, nor use the premises in a manner which will increase the insurance rate for the building or any property located therein over that in effect prior to the commencement of Tenant's occupancy. Tenant shall pay all costs, expenses, fines, penalties, or damages, which may be imposed upon Owner by reason of Tenant's failure to comply with the provisions of this article and if by reason of such failure the fire insurance rate shall, at the beginning of this lease or at any time thereafter, be higher than it otherwise would be, then Tenant shall reimburse Owner, as additional rent hereunder, for that portion of all fire insurance premiums thereafter paid by Owner which shall have been charged because of such failure by Tenant. In any action or proceeding wherein Owner and Tenant are parties, a schedule or "make-up" of rate for the building or demised premises issued by the New York Fire Insurance Exchange, or other body making fire insurance rates applicable to said premises shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rates then applicable to said premises. Tenant shall not place a load upon any floor of the demised premises exceeding the floor load per square foot area which it was designed to carry and which is allowed by law. Owner reserves the right to prescribe the weight and position of all safes, business machines and mechanical equipment. Such installations shall be placed and maintained by Tenant, at Tenant's expense, in settings sufficient, in Owner's judgement, to absorb and prevent vibration, noise and annoyance.

10 **Subordination:** 7. This lease is subject and subordinate to all ground or underlying leases and to all mortgages which may now or hereafter affect such leases or the real property of which demised premises are a part and to all renewals, modifications, consolidations, replacements and extensions of any such underlying leases and mortgages. This clause shall be self-operative and no further instrument of subordination shall be required by any ground or underlying lessor or by any mortgage, affecting any lease or the real property of which the demised premises are a part. In confirmation of such subordination, Tenant shall execute promptly any certificate that Owner may request.

Property—Loss, Damage, Reimbursement, Indemnity: 8. Owner or its agents shall not be liable for any damage to property of Tenant or of others entrusted to employees of the building, nor for loss of or damage to any property of Tenant by theft or otherwise, nor for any injury or damage to persons or property resulting from any cause of whatsoever nature, unless caused by or due to the negligence of Owner, its agents, servants or employees. Owner or its agents will not be liable for any such damage caused by other tenants or persons in, upon or about said building or caused by operations in construction of any private, public or quasi public work. If at any time any windows of the demised premises are temporarily closed, darkened or bricked up (or permanently closed, darkened or bricked up, if required by law) for any reason whatsoever including, but not limited to Owner's own acts, Owner shall not be liable for any damage Tenant may sustain thereby and Tenant shall not be entitled to any compensation therefor nor abatement or diminution of rent nor shall the same release Tenant from its obligations hereunder nor constitute an eviction. Tenant shall indemnify and save harmless Owner against and from all liabilities, obligations, damages, penalties, claims, costs and expenses for which Owner shall not be reimbursed by insurance, including reasonable attorneys fees, paid, suffered or incurred as a result of any breach by Tenant, Tenant's agents, contractors, employees, invitees, or licensees, of any covenant or condition of this lease, or the carelessness, negligence or improper conduct of the Tenant, Tenant's agents, contractors, employees, invitees or licensees. Tenant's liability under this lease extends to the acts and omissions of any sub-tenant, and any agent, contractor, employee, invitee or licensee of any sub-tenant. In case any action or proceeding is brought against Owner by reason of any such claim, Tenant, upon written notice from Owner, will, at Tenant's expense, resist or defend such action or proceeding by counsel approved by Owner in writing, such approval not to be unreasonably withheld.

Destruction, Fire and Other Casualty: 9. (a) If the demised premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give immediate notice thereof to Owner and this lease shall continue in full force and effect except as hereinafter set forth. (b) If the demised premises are partially damaged or rendered partially unusable by fire or other casualty, the damages thereto shall be repaired by and at the expense of Owner and the rent, until such repair shall be substantially completed, shall be apportioned from the day following the casualty according to the part of the premises which is usable. (c) If the demised premises are totally damaged or rendered wholly unusable by fire or other casualty, then the rent shall be proportionately paid up to the time of the casualty and thenceforth shall cease until the

date when the premises shall have been repaired and restored. (b) If the premises shall be damaged by fire or other casualty, subject to Owner's right to elect not to restore the same as herein provided. (d) If the demised premises are rendered wholly unusable or (whether or not the demised premises are damaged in whole or in part) if the building shall be so damaged that Owner shall decide to demolish it or to rebuild it, then, in any of such events, Owner may elect to terminate this lease by written notice to Tenant, given within 90 days after such fire or casualty, specifying a date for the expiration of the lease, which date shall not be more than 60 days after the giving of such notice, and upon the date specified in such notice the term of this lease shall expire as fully and completely as if such date were the date set forth above for the termination of this lease and Tenant shall forthwith quit, surrender and vacate the premises without prejudice however, to Landlord's rights and remedies against Tenant under the lease provisions in effect prior to such termination, and any rent owing shall be paid up to such date and any payments of rent made by Tenant which were on account of any period subsequent to such date shall be returned to Tenant. Unless Owner shall serve a termination notice as provided for herein, Owner shall make the repairs and restorations under the conditions of (b) and (c) hereof, with all reasonable expedition, subject to delays due to adjustment of insurance claims, labor troubles and causes beyond Owner's control. After any such casualty, Tenant shall cooperate with Owner's restoration by removing from the premises as promptly as reasonably possible, all of Tenant's salvageable inventory and movable equipment, furniture, and other property. Tenant's liability for rent shall resume ~~five (5) days~~ after written notice from Owner that the premises are substantially ready for Tenant's occupancy. (e) Nothing contained hereinabove shall relieve Tenant from liability that may exist as a result of damage from fire or other casualty. Notwithstanding the foregoing, each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty, and to the extent that such insurance is in force and collectible and to the extent permitted by law, Owner and Tenant each hereby releases and waives its right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releasors' insurance policies contain a clause providing that such a release or waiver shall not invalidate the insurance. If, and to the extent, that such waiver can be obtained only by the payment of additional premiums, then the party benefiting from the waiver shall pay such premium within ten days after written demand or shall be deemed to have agreed that the party obtaining insurance coverage shall be free of any further obligation under the provisions hereof with respect to waiver of subrogation. Tenant acknowledges that Owner will not carry insurance on Tenant's furniture and/or furnishings or any fixtures or equipment, improvements, or appurtenances removable by Tenant and agrees that Owner will not be obligated to repair any damage thereto or replace the same. (f) Tenant hereby waives the provisions of Section 227 of the Real Property Law and agrees that the provisions of this article shall govern and control in lieu thereof.

Eminent Domain: 10. If the whole or any part of the demised premises shall be acquired or condemned by Eminent Domain for any public or quasi public use or purpose, then and in that event, the term of this lease shall cease and terminate from the date of title vesting in such proceeding and Tenant shall have no claim for the value of any unexpired term of said lease and assigns to Owner, Tenant's entire interest in any such award.

Assignment, Mortgage, Etc.: 11. Tenant, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, expressly covenants that it shall not assign, mortgage or encumber this agreement, nor underlet, or suffer or permit the demised premises or any part thereof to be used by others, without the prior written consent of Owner in each instance. Transfer of the majority of the stock of a corporation shall be deemed an assignment. If this lease be assigned, or if the demised premises or any part thereof be underlet or occupied by anybody other than Tenant, Owner may, after default by Tenant, collect rent from the assignee, under-tenant or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, underletting, occupancy or collection shall be deemed a waiver of this covenant, or of the right of Owner, assignee, under-tenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Owner to an assignment or occupancy shall not in any wise be construed to relieve Tenant from obtaining the consent in writing of Owner to any further assignment or occupancy.

Electric Current: 12. Rates and conditions in respect to electric current rent inclusion, as the case may be, to be added to the RIDER attached hereto. Tenant covenants and agrees that at all times its use of electric current shall not exceed the capacity of existing feeders to the building or the district. Installation and Tenant may not use any electrical equipment which, in Owner's opinion, reasonably exercised, will overload such installation or interfere with the use thereof by other tenants of the building. No work of any nature or character of electric service shall in no wise make Owner liable or responsible to Tenant, for any loss, damages or expenses which Tenant may sustain.

Access to Premises: 13. Owner or Owner's agents shall have the right to enter the demised premises (Tenant shall not be obligated) to enter the demised premises at any emergency at any time, and, at other reasonable times, to examine the same and to make such repairs, replacements and improvements as Owner may deem necessary and reasonably desirable to the demised premises or to any other portion of the building or which Owner may elect to perform. Tenant shall permit Owner to use and maintain and replace pipes and conduits in and through the demised premises and to erect new pipes and conduits therein provided they are concealed within the walls, floor, or ceiling. Owner may, during the progress of any work in the demised premises, take all necessary materials and equipment into said premises without the same constituting an eviction; nor shall the Tenant be entitled to any abatement of rent while such work is in progress nor to any damages by reason of loss or interruption of business or otherwise. Throughout the term hereof Owner shall have the right to enter the demised premises at reasonable hours for the purpose of showing the

Rider to be added if necessary.

same to prospective purchasers or mortgagees of the building, and during the last six months of the term for the purpose of showing the same to prospective tenants. If Tenant is not present to open and permit an entry into the premises, Owner or Owner's agents may enter the same whenever such entry may be necessary or permissible by master key or forcibly and provided reasonable care is exercised to safeguard Tenant's property, such entry shall not render Owner or its agents liable therefor, nor in any event shall the obligations of Tenant hereunder be affected. If during the last month of the term Tenant shall have removed all or substantially all of Tenant's property therefrom Owner may immediately enter, alter, renovate or redecorate the demised premises without limitation or abatement of rent, or incurring liability to Tenant for any compensation and such act shall have no effect on this lease or Tenant's obligations hereunder.

Vault, Vault Space, Area: 14. No Vault, vault space or area, whether or not enclosed or covered, not within the property line of the building is leased hereunder, anything contained in or indicated on any sketch, blue print or plan, or anything contained elsewhere in this lease to the contrary notwithstanding. Owner makes no representation as to the location of the property line of the building. All vaults and vault space and all such areas not within the property line of the building, which Tenant may be permitted to use and/or occupy, is to be used and/or occupied under a revocable license, and if any such license be revoked, or if the amount of such space or area be diminished or required by any federal, state or municipal authority or public utility, Owner shall not be subject to any liability nor shall Tenant be entitled to any compensation or diminution or abatement of rent, nor shall such revocation, diminution or regulation be deemed constructive or actual eviction. Any tax, fee or charge of municipal authorities for such vault or area shall be paid by Tenant. → 13

Occupancy: 15. Tenant will not at any time use or occupy the demised premises in violation of the certificate of occupancy issued for the building of which the demised premises are a part. Tenant has inspected the premises and accepts them as is, subject to the riders annexed hereto with respect to Owner's work, if any. In any event, Owner makes no representation as to the condition of the premises and Tenant agrees to accept the same subject to violations, whether or not of record.

Bankruptcy: 16. (a) Anything elsewhere in this lease to the contrary notwithstanding, this lease may be cancelled by Owner by the sending of a written notice to Tenant within a reasonable time after the happening of any one or more of the following events: (1) the commencement of a case in bankruptcy or under the laws of any state naming Tenant as the debtor; or (2) the making by Tenant of an assignment or any other arrangement for the benefit of creditors under any state statute. Neither Tenant nor any person claiming through or under Tenant, or by reason of any statute or order of court, shall thereafter be entitled to possession of the premises demised but shall forthwith quit and surrender the premises. If this lease shall be assigned in accordance with its terms, the provisions of this Article 16 shall be applicable only to the party then owning Tenant's interest in this lease.

(b) It is stipulated and agreed that in the event of the termination of this lease pursuant to (a) hereof, Owner shall forthwith, notwithstanding any other provisions of this lease to the contrary, be entitled to recover from Tenant as and for liquidated damages an amount equal to the difference between the rent reserved hereunder for the unexpired portion of the term demised and the fair and reasonable rental value of the demised premises for the same period. In the computation of such damages the difference between any installment of rent becoming due hereunder after the date of termination and the fair and reasonable rental value of the demised premises for the period for which such installment was payable shall be discounted to the date of termination at the rate of four percent (4%) per annum. If such premises or any part thereof be relet by the Owner for the unexpired term of said lease, or any part thereof, before presentation of proof of such liquidated damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the premises so re-let during the term of the re-letting. Nothing herein contained shall limit or prejudice the right of the Owner to prove for and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of the difference referred to above.

Default: 17. (1) If Tenant defaults in fulfilling any of the covenants of this lease other than the covenants for the payment of rent or additional rent; or if the demised premises become vacant or deserted; or if any execution or attachment shall be issued against Tenant or any of Tenant's property whereupon the demised premises shall be taken or occupied by someone other than Tenant; or if this lease be rejected under § 235 of Title 11 of the U.S. Code (bankruptcy code); or if Tenant shall fail to move into or take possession of the premises within fifteen (15) days after the commencement of the term of this lease, then, in any one or more of such events, upon Owner serving a written five (5) days notice upon Tenant specifying the nature of said default and upon the expiration of said five (5) days, if Tenant shall have failed to comply with or remedy such default, or if the said default or omission complained of shall be of a nature that the same cannot be completely cured or remedied within said five (5) day period, and if Tenant shall not have diligently commenced curing such default within such five (5) day period, and shall not thereafter with reasonable diligence and in good faith, proceed to remedy or cure such default, then Owner may serve a written three (3) days' notice of cancellation of this lease upon Tenant, and upon the expiration of said three (3) days this lease and the term thereunder shall end and expire as fully and completely as if the expiration of such three (3) day period were the day herein definitely fixed for the end and expiration of this lease and the term thereof and Tenant shall then quit and surrender the demised premises to Owner but Tenant shall remain liable as hereinafter provided.

(2) If the notice provided for in (1) hereof shall have been given, and the term shall expire as aforesaid, or if Tenant shall make default in the payment of the rent reserved herein or any item of additional rent herein mentioned or any part of either or in making any other payment herein required; then and in any of such events Owner may without notice, re-enter the demised premises either by force or otherwise, and dispossess Tenant by summary proceedings or otherwise, and the legal representative of Tenant or other occupant of demised premises and remove their effects and hold the premises as if this lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end. If Tenant shall make default hereunder prior to the date fixed as the commencement of any renewal or extension of this lease, Owner may cancel and terminate such renewal or extension agreement by written notice.

Remedies of Owner and Waiver of Redemption: 18. In case of any such default, re-entry, expiration and/ or dispossession by summary proceedings or otherwise, (a) the rent shall become due thereupon and be paid up to the time of such re-entry, dispossession and/ or expiration, (b) Owner may re-let the premises or any part or parts thereof, either in the name of Owner or otherwise, for a term or terms, which may at Owner's option be less than or exceed the period which would otherwise have constituted the balance of the term of this lease and may grant concessions or free rent or charge a higher rental than that in this lease, and/ or (c) Tenant or the legal representatives of Tenant shall also pay Owner as liquidated damages for the failure of Tenant to observe and perform said Tenant's covenants herein contained, any deficiency between the rent hereby reserved and/ or covenanted to be paid and the net amount, if any, of the rents collected on account of the lease or leases of the demised premises for each month of the period which would otherwise have constituted the balance of the term of this lease. The failure of Owner to re-let the premises or any part or parts thereof shall not release or effect Tenant's liability for damages. In computing such liquidated damages there shall be added to the said deficiency such expenses as Owner may incur in connection with re-letting, such as legal expenses, attorneys' fees, brokerage, advertising and for keeping the demised premises in good order or for preparing the same for re-letting. Any such liquidated damages shall be paid in monthly installments by Tenant on the rent day specified in this lease and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of Owner to collect the deficiency for any subsequent month by a similar proceeding. Owner, in putting the demised premises in good order or preparing the same for re-rental may, at Owner's option, make such alterations, repairs, replacements, and/ or decorations in the demised premises as Owner, in Owner's sole judgement, considers advisable and necessary for the purpose of re-letting the demised premises, and the making of such alterations, repairs, replacements, and/ or decorations shall not operate or be construed to release Tenant from liability hereunder as aforesaid. Owner shall in no event be liable in any way whatsoever for failure to re-let the demised premises, or in the event that the demised premises are re-let, for failure to collect the rent thereof under such re-letting, and in no event shall Tenant be entitled to receive any excess, if any, of such net rents collected over the sums payable by Tenant to Owner hereunder. In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Owner shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Mention in this lease of any particular remedy, shall not preclude Owner from any other remedy, in law or in equity, Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Owner obtaining possession of demised premises, by reason of the violation by Tenant of any of the covenants and conditions of this lease, or otherwise.

Fees and Expenses: 19. If Tenant shall default in the observance or performance of any term or covenant on Tenant's part to be observed or performed under or by virtue of any of the terms or provisions in any article of this lease, then, unless otherwise provided elsewhere in this lease, Owner may immediately or at any time thereafter and without notice perform the obligation of Tenant thereunder. If Owner, in connection with the foregoing or in connection with any default by Tenant in the covenant to pay rent hereunder, makes any expenditures or incurs any obligations for the payment of money, including but not limited to attorney's fees, in instituting, prosecuting or defending any action or proceeding, then Tenant will reimburse Owner for such sums so paid or obligations incurred with interest and costs. The foregoing expenses incurred by reason of Tenant's default shall be deemed to be additional rent hereunder and shall be paid by Tenant to Owner within five (5) days of rendition of any bill or statement to Tenant therefor. If Tenant's lease term shall have expired at the time of making of such expenditures or incurring of such obligations, such sums shall be recoverable by Owner as damages.

Building Alterations and Management: 20. Owner shall have the right at any time without the same constituting an eviction and without incurring liability to Tenant therefor to change the arrangement and/ or location of public entrances, passageways, doors, doorways, corridors, elevators, stairs, toilets or other public parts of the building and to change the name, number or designation by which the building may be known. There shall be no allowance to Tenant for diminution of rental value and no liability on the part of Owner by reason of inconvenience, annoyance or injury to business arising from Owner or other Tenants making any repairs in the building or any such alterations, additions and improvements. Furthermore, Tenant shall not have any claim against Owner by reason of Owner's imposition of such controls of the manner of access to the building by Tenant's social or business visitors as the Owner may deem necessary for the security of the building and its occupants.

No Representations by Owner: 21. Neither Owner nor Owner's agents have made any representations or promises with respect to the physical condition of the building, the land upon which

it is erected or the demised premises, the rents, leases, expenses of operation or any other matter or thing affecting or related to the premises except as herein expressly set forth and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in the provisions of this lease. Tenant has inspected the building and the demised premises and is thoroughly acquainted with their condition and agrees to take the same "as is" and acknowledges that the taking of possession of the demised premises by Tenant shall be conclusive evidence that the said premises and the building of which the same form a part were in good and satisfactory condition at the time such possession was so taken, except as to latent defects. All understandings and agreements heretofore made between the parties hereto are merged in this contract, which alone fully and completely expresses the agreement between Owner and Tenant and any executory agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of it in whole or in part, unless such executory agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.

End of Term: 22. Upon the expiration or other termination of the term of this lease, Tenant shall quit and surrender to Owner the demised premises, broom clean, in good order and condition, ordinary wear and damages which Tenant is not required to repair as provided elsewhere in this lease excepted, and Tenant shall remove all its property. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this lease. If the last day of the term of this Lease or any renewal thereof, falls on Sunday, this lease shall expire at noon on the preceding Saturday unless it be a legal holiday in which case it shall expire at noon on the preceding business day.

Quiet Enjoyment: 23. Owner covenants and agrees with Tenant that upon Tenant paying the rent and additional rent and observing and performing all the terms, covenants and conditions, on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the premises hereby demised, subject, nevertheless, to the terms and conditions of this lease including, but not limited to, Article 31 hereof and to the ground leases, underlying leases and mortgages hereinbefore mentioned.

Failure to Give Possession: 24. If Owner is unable to give possession of the demised premises on the date of the commencement of the term hereof, because of the holding-over or retention of possession of any tenant, undertenant or occupants or if the demised premises are located in a building being constructed, because such building has not been sufficiently completed to make the premises ready for occupancy or because of the fact that a certificate of occupancy has not been procured or for any other reason, Owner shall not be subject to any liability for failure to give possession on said date and the validity of the lease shall not be impaired under such circumstances, nor shall the same be construed in any wise to extend the term of this lease, but the rent payable hereunder shall be abated (provided Tenant is not responsible for Owner's inability to obtain possession) until after Owner shall have given Tenant written notice that the premises are substantially ready for Tenant's occupancy. If permission is given to Tenant to enter into the possession of the demised premises or to occupy premises other than the demised premises prior to the date specified as the commencement of the term of this lease, Tenant covenants and agrees that such occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this lease, except as to the covenant to pay rent. The provisions of this article are intended to constitute "an express provision to the contrary" within the meaning of Section 223-a of the New York Real Property Law.

No Waiver: 25. The failure of Owner to seek redress for violation of, or to insist upon the strict performance of any covenant or condition of this lease or of any of the Rules or Regulations, set forth or hereafter adopted by Owner, shall not prevent a subsequent act which would have originally constituted a violation from having all the force and effect of an original violation. The receipt by Owner of rent with knowledge of the breach of any covenant of this lease shall not be deemed a waiver of such breach and no provision of this lease shall be deemed to have been waived by Owner unless such waiver be in writing signed by Owner. No payment by Tenant or receipt by Owner of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than an account of the earliest stipulated rent, nor shall any endorsement or statement of any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Owner may accept such check or payment without prejudice to Owner's right to recover the balance of such rent or pursue any other remedy in this lease provided. No act or thing done by Owner or Owner's agents during the term hereby demised shall be deemed an acceptance of a surrender of said premises, and no agreement to accept such surrender shall be valid unless in writing signed by Owner. No employee of Owner or Owner's agent shall have any power to accept the key of said premises prior to the termination of the lease and the delivery of keys to any such agent or employee shall not operate as a termination of the lease or a surrender of the premises.

Waiver of Trial by Jury: 26. It is mutually agreed by and between Owner and Tenant that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury or property damage) on any matters whatsoever arising out of or in any way connected with this lease, the relationship of Owner and Tenant, Tenant's use of or occupancy of said premises, and any emergency statutory or any other statutory remedy. It is further mutually agreed that in the event Owner commences any summary proceeding for possession of the premises, Tenant will not interpose any counterclaim of whatever nature or description in any such proceeding including a counterclaim under Article 19.

Inability to Perform: 27. This Lease and the obligation of Tenant to pay rent hereunder and perform all of the other covenants and agreements hereunder on part of Tenant to be performed shall in no wise be affected, impaired or excused because Owner is

unable to fulfill any of its obligations under this lease or to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make, or is delayed in making any repair, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Owner is prevented or delayed from so doing by reason of strike or labor troubles or any cause whatsoever including, but not limited to, government preemption in connection with a National Emergency or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency.


Bills and Notices: 28. Except as otherwise in this lease provided, a bill, statement, notice or communication which Owner may desire or be required to give to Tenant, shall be deemed sufficiently given or rendered if, in writing, delivered to Tenant personally or sent by registered or certified mail addressed to Tenant at the building of which the demised premises form a part or at the last known residence address or business address of Tenant or left at any of the aforesaid premises addressed to Tenant, and the time of the rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is delivered to Tenant, mailed, or left at the premises as herein provided. Any notice by Tenant to Owner must be served by registered or certified mail addressed to Owner at the address first hereinabove given or at such other address as Owner shall designate by written notice.

Services Provided by Owners: 29. As long as Tenant is not in default under any of the covenants of this lease, Owner shall provide: (a) necessary elevator facilities on business days from 8 a.m. to 4 p.m. and on Saturdays from 8 a.m. to 1 p.m. and have one elevator subject to call at all other times; (b) heat to the demised premises when and as required by law, on business days from 8 a.m. to 4 p.m. and on Saturdays from 8 a.m. to 1 p.m.; (c) water for ordinary lavatory purposes, but if Tenant uses or consumes water for any other purpose or in unusual quantities (of which fact Owner shall be the sole judge), Owner may install a water meter at Tenant's expense which Tenant shall thereafter maintain at Tenant's expense in good working order and repair to register such water consumption and Tenant shall pay for water consumed as shown on said meter as additional rent as and when bills are rendered; (d) cleaning service for the demised premises on business days at Owner's expense provided that the same are kept in order by Tenant. If, however, said premises are to be kept clean by Tenant, it shall be done at Tenant's sole expense, in a manner satisfactory to Owner and no one other than persons approved by Owner shall be permitted to enter said premises or the building of which they are a part for such purpose. Tenant shall pay Owner the cost of removal of any of Tenant's refuse and rubbish from the building; (e) if the demised premises are serviced by Owner's air conditioning/cooling and ventilating system, air conditioning/cooling will be furnished to tenant from May 15th through September 30th on business days (Mondays through Fridays, holidays excepted) from 8:00 a.m. to 6:00 p.m., and ventilation will be furnished on business days during the aforesaid hours except when air conditioning/cooling is being furnished as aforesaid. If Tenant requires air conditioning/cooling or ventilation for more extended hours or on Saturdays, Sundays or on holidays, as defined under Owner's contract with Operating Engineers Local 94-94A, Owner will furnish the same at Tenant's expense. RIDER to be added in respect to rates and conditions for such additional service;

(f) Owner reserves the right to stop services of the heating, elevators, plumbing, air conditioning, power systems or cleaning or other services, if any, when necessary by reason of accident or for repairs, alterations, replacements or improvements necessary or desirable in the judgment of Owner for as long as may be reasonably required by reason thereof. If the building of which the demised premises are a part supplies manually-operated elevator service, Owner at any time may substitute automatic-control elevator service and upon ten days' written notice to Tenant, proceed with alterations necessary therefor without in any wise affecting this lease or the obligation of Tenant hereunder. The same shall be done with a minimum of inconvenience to Tenant and Owner shall pursue the alteration with due diligence.

Captions: 30. The Captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this lease nor the intent of any provisions thereof.

Definitions: 31. The term "office", or "offices", wherever used in this lease, shall not be construed to mean premises used as a store or stores, for the sale or display, at any time, of goods, wares or merchandise, of any kind, or as a restaurant, shop, booth, bootblack or other stand, barber shop, or for other similar purposes or for manufacturing. The term "Owner" means a landlord or lessor, and as used in this lease means only the owner, or the mortgagee in possession, for the time being of the land and building (or the owner of a lease of the building or of the land and building) of which the demised premises form a part, so that in the event of any sale or sales of said land and building or of said lease, or in the event of a lease of said building, or of the land and building, the said Owner shall be and hereby is entirely freed and relieved of all covenants and obligations of Owner hereunder, and it shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and the purchaser, at any such sale, or the said lessee of the building, or of the land and building, that the purchaser or the lessee of the building has assumed and agreed to carry out any and all covenants and obligations of Owner hereunder. The words "re-entry" and "re-entry" as used in this lease are not restricted to their technical legal meaning. The term "business days" as used in this lease shall exclude Saturdays (except such portion thereof as is covered by specific hours in Article 29 hereof), Sundays and all days observed by the State or Federal Government as legal holidays and those designated as holidays by the applicable building service union employees service contract or by the applicable Operating Engineers contract with respect to HVAC service.

 Rider to be added if necessary.

Adjacent Excavation—Shoring: 32. If an excavation shall be made upon land adjacent to the demised premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the demised premises for the purpose of doing such work as said person shall deem necessary to preserve the wall or the building of which demised premises form a part from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Owner, or diminution or abatement of rent.

Rules and Regulations: 33. Tenant and Tenant's servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, the Rules and Regulations and such other and further reasonable Rules and Regulations as Owner or Owner's agents may from time to time adopt. Notice of any additional rules or regulations shall be given in such manner as Owner may elect. In case Tenant disputes the reasonableness of any additional Rule or Regulation hereafter made or adopted by Owner or Owner's agents, the parties hereto agree to submit the question of the reasonableness of such Rule or Regulation for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the parties hereto. The right to dispute the reasonableness of any additional Rule or Regulation upon Tenant's part shall be deemed waived unless the same shall be asserted by service of a notice, in writing upon Owner within ten (10) days after the giving of notice thereof. Nothing in this lease contained shall be construed to impose upon Owner any duty or obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease, as against any other tenant and Owner shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

Security: 34. Tenant has deposited with Owner the sum of \$ 44,083.28 as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this lease; it is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this lease, including, but not limited to, the payment of rent and additional rent, Owner may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum

Space to be filled in or deleted.

as to which Tenant is in default or for any sum which Owner may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this lease, including but not limited to, any damages or deficiency in the re-letting of the premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Owner. In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this lease, the security shall be returned to Tenant after the date fixed as the end of the Lease and after delivery of entire possession of the demised premises to Owner. In the event of a sale of the land and building or leasing of the building, of which the demised premises form a part, Owner shall have the right to transfer the security to the vendee or lessee and Owner shall thereupon be released by Tenant from all liability for the return of such security; and Tenant agrees to look to the new Owner solely for the return of said security, and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Owner. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Owner nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

Estoppel Certificate: 35. Tenant, at any time, and from time to time, upon at least 10 days' prior notice by Owner, shall execute, acknowledge and deliver to Owner, and/or to any other person, firm or corporation specified by Owner, a statement certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), stating the dates to which the rent and additional rent have been paid, and stating whether or not there exists any default by Owner under this Lease, and, if so, specifying each such default.

Successors and Assigns: 36. The covenants, conditions and agreements contained in this lease shall bind and inure to the benefit of Owner and Tenant and their respective heirs, distributees, executors, administrators, successors, and except as otherwise provided in this lease, their assigns.

~~IN WITNESS WHEREOF~~, Owner and Tenant have respectively signed and sealed this lease as of the day and year first above written.

Witness for Owner:

.....

Witness for Tenant:

.....

MAPLE PLAZA HOUSING DEVELOPMENT FUND CORPORATION

BY: *[Signature]*

RALPH LAUREN CENTER FOR CANCER PREVENTION FOUNDATION

BY: *[Signature]*

ACKNOWLEDGMENTS

CORPORATE OWNER STATE OF NEW YORK, ss.: County of

On this day of , 19 , before me personally came to me known, who being by me duly sworn, did depose and say that he resides in that he is the of

the corporation described in and which executed the foregoing instrument, as OWNER; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

INDIVIDUAL OWNER STATE OF NEW YORK, ss.: County of

On this day of , 19 , before me personally came

to me known and known to me to be the individual described in and who, as OWNER, executed the foregoing instrument and acknowledged to me that he executed the same.

CORPORATE TENANT STATE OF NEW YORK, ss.: County of

On this day of , 19 , before me personally came to me known, who being by me duly sworn, did depose and say that he resides in that he is the of

the corporation described in and which executed the foregoing instrument, as TENANT; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

INDIVIDUAL TENANT STATE OF NEW YORK, ss.: County of

On this day of , 19 , before me personally came

to me known and known to me to be the individual described in and who, as TENANT, executed the foregoing instrument and acknowledged to me that he executed the same.

GUARANTY

FOR VALUE RECEIVED, and in consideration for, and as an inducement to Owner making the within lease with Tenant, the undersigned guaranties to Owner, Owner's successors and assigns, the full performance and observance of all the covenants, conditions and agreements, therein provided to be performed and observed by Tenant, including the "Rules and Regulations" as therein provided, without requiring any notice of non-payment, non-performance, or non-observance, or proof, or notice, or demand, whereby to charge the undersigned therefor, all of which the undersigned hereby expressly waives and expressly agrees that the validity of this agreement and the obligations of the guarantor hereunder shall in no wise be terminated, affected or impaired by reason of the assertion by Owner against Tenant of any of the rights or remedies reserved to Owner pursuant to the provisions of the within lease. The undersigned further covenants and agrees that this guaranty shall remain and continue in full force and effect as to any renewal, modification or extension of this lease and during any period when Tenant is occupying the premises as a "tenancy at will." As a further inducement to Owner to make this lease and in consideration thereof, Owner and the undersigned covenant and agree that in any action or proceeding brought by either Owner or the undersigned against the other on any matters whatsoever arising out of, under, or by virtue of the terms of this lease or of this guaranty that Owner and the undersigned shall and do hereby waive trial by jury.

Dated: 19.....

Guarantor

Witness

Guarantor's Residence

Business Address

Firm Name

STATE OF NEW YORK) ss.:
COUNTY OF)

On this day of 19..... before me

personally came to me known and known to me to be the individual described in, and who executed the foregoing Guaranty and acknowledged to me that he executed the same.

Notary

IMPORTANT - PLEASE READ

RULES AND REGULATIONS ATTACHED TO AND MADE A PART OF THIS LEASE IN ACCORDANCE WITH ARTICLE 33.

- The sidewalks, entrances, driveways, passages, courts, elevators, vestibules, stairways, corridors or halls shall not be obstructed or encumbered by any Tenant or used for any purpose other than for ingress or egress from the demised premises and for delivery of merchandise and equipment in a prompt and efficient manner using elevators and passageways designated for such delivery by Owner. There shall not be used in any space, or in the public hall of the building, either by any Tenant or by jobbers or others in the delivery or receipt of merchandise, any hand trucks, except those equipped with rubber tires and sidguards. If said premises are situated on the ground floor of the building, Tenant thereof shall further, at Tenant's expense, keep the sidewalk and curb in front of said premises clean and free from ice, snow, dirt and rubbish.
- The water and wash closets and plumbing fixtures shall not be used for any purposes other than those for which they were designed or constructed and no sweepings, rubbish, rags, acids or other substances shall be deposited therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose clerks, agents, employees or visitors, shall have caused it.
- No carpets, rug or other article shall be hung or shaken out of any window of the building; and no Tenant shall sweep or throw or permit to be swept or thrown from the demised premises any dirt or other substances into any of the corridors or halls, elevators, or out of the doors or windows or stairways of the building and Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the demised premises, or permit or suffer the demised premises to be occupied or used in a manner offensive or objectionable to Owner or other occupants of the building by reason of noise, odors, and/or vibrations, or interfere in any way with other Tenants or those having business therein, nor shall any animals or birds be kept in or about the building. Smoking or carrying lighted cigars or cigarettes in the elevators of the building is prohibited.
- No awnings or other projections shall be attached to the outside walls of the building without the prior written consent of Owner.
- No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by any Tenant on any part of the outside of the demised premises or the building or on the inside of the demised premises if the same is visible from the outside of the premises without the prior written consent of Owner, except that the name of Tenant may appear on the entrance door of the premises. In the event of the violation of the foregoing by any Tenant, Owner may remove same without any liability, and may charge the expense incurred by such removal to Tenant or Tenants violating this rule. Interior signs on doors and directory tablet shall be inscribed, painted or affixed of each Tenant by Owner at the expense of such Tenant, and shall be of color and style acceptable to Owner.
- No Tenant shall mark, paint, drill into, or in any way deface any part of the demised premises or the building of which they form a part. No boring, cutting or

striking of pipes shall be permitted, except with the prior written consent of Owner, and as Owner may direct. No Tenant shall lay linoleum, or other similar floor covering, so that the same shall come in direct contact with the floor of the demised premises, and, if linoleum or other similar floor covering is desired to be used an interlining of builder's deadening felt shall be first affixed to the floor, by a paste or other material, soluble in water, the use of cement or other similar adhesive material being expressly prohibited.

No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any Tenant, nor shall any changes be made in existing locks or mechanism thereof. Each Tenant must, upon the termination of his Tenancy, restore to Owner all keys of stores, offices and toilet rooms, either furnished to, or otherwise produced by, such Tenant, and in the event of the loss of any keys, so furnished, such Tenant shall pay to Owner the cost thereof.

Freight, furniture, business equipment, merchandise and bulky matter of any description shall be delivered to and removed from the premises only on the freight elevators and through the service entrances and corridors, and only during hours and in a manner approved by Owner. Owner reserves the right to inspect all freight to be brought into the building and to exclude from the building all freight which violates any of these Rules and Regulations of the lease or which these Rules and Regulations are a part.

Canvassing, soliciting and peddling in the building is prohibited and each Tenant shall cooperate to prevent the same.

Owner reserves the right to exclude from the building between the hours of 7 P.M. and 8 A.M. and at all hours on Sundays, and legal holidays all persons who do not present a pass to the building signed by Owner. Owner will furnish passes to persons for whom any Tenant requests same in writing. Each Tenant shall be responsible for the possession of whom he requests such pass and shall be liable to Owner for all such passes.

Owner shall have the right to prohibit any advertising by any Tenant which in Owner's opinion, tends to impair the reputation of the building or its desirability as a building for offices, and upon written notice from Owner, Tenant shall refrain from or discontinue such advertising.

Tenant shall not bring or permit to be brought or kept in or on the demised premises, any inflammable, combustible or explosive fluid, material, chemical or substance, or cause or permit any odors of cooking or other processes, or any unusual or other objectionable odors to permeate in or emanate from the demised premises.

If the building contains central air conditioning and ventilation Tenant agrees to keep all windows closed at all times and to abide by all rules and regulations issued by the Owner with respect to such services. If Tenant requires air conditioning or ventilation after the usual hours, Tenant shall give notice in writing to the building superintendent prior to 1:00 P.M. in the case of services required on week days, and prior to 1:00 P.M. on the day prior in the case of after hours service required on ~~week days or on holidays.~~

Tenant shall not move any safe, heavy machinery, heavy equipment, bulky matter, or fixtures into or out of the building without Owner's prior written consent. If such safe, machinery, equipment, bulky matter or fixtures requires special handling, all work in connection therewith shall comply with the Administrative Code of the City of New York and all other laws and regulations applicable thereto and shall be done during such hours as Owner may designate.

Address
Premises

TO

STANDARD FORM OF

OFFICE LEASE

The Real Estate Board of New York, Inc.
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Dated 19.....

Except as may be required of normal medical office practices,

Rent per Year

Rent per Month

Term From To

Drawn by Checked by

Entered by Approved by

INSERTS TO PRE-PRINTED PORTION OF LEASE BETWEEN
MAPLE PLAZA HOUSING DEVELOPMENT FUND CORPORATION, AS OWNER, AND
RALPH LAUREN CENTER FOR CANCER PREVENTION FOUNDATION, AS TENANT

PRINTED FORM

Page 1

1. structural
2. which consent shall not be unreasonably withheld or delayed
- 2.1 selected by Tenant
3. reasonably
4. or medical equipment
5. normal wear and tear accepted
6. using a contractor selected by Tenant
7. reasonable

Page 2

8. including, without limitation, the proper disposal of any form of medical waste.
9. reasonable
10. reasonable
11. thirty (30) days
12. upon reasonable prior notice to Tenant

Page 3

13. if such area is used by Tenant.
14. for five (5) days after receipt of a written notice from Owner
15. reasonable
16. reasonably
17. shall so notify Tenant by serving a written five (5) days notice upon Tenant specifying the nature of said default and upon the expiration of said five (5) days, if the Tenant shall have failed to comply with or remedy such default, or if the said default or omission complained of shall be of a nature that the same cannot be completely cured or remedied within said five (5) day period, and if Tenant shall not have diligently commenced curing such default, within such five (5) day period, and shall not thereafter with reasonable diligence and in good faith, proceed to remedy or cure such default, then Owner
18. reasonable

Page 4

19. , however Tenant may institute a separate action to assert its claim. Notwithstanding anything to the contrary in this Article 26, the waiver of trial by jury shall be effective only with respect to actions or counterclaims brought under the Real Property Actions and Proceedings Law.

Attachment #

9 - 11 - A - 5

Square Footage

Total Square Footage occupied by Article 28 - 27,118 sq ft.

Total Square Footage Building - 274,623 sq ft.

Real Estate - Management - Leasing - Development - Sales

1825 Park Avenue New York, NY 10035 (212) 410-4545

Fax (212) 410-7293

GISCOMBE REALTY
GROUP LLC.

April 1, 2010

Paul T. Galese
Alvarez & Marsal
55 West Monroe Street, Suite 3700
Chicago, IL 60603

Dear Mr. Gallese:

For your information I've listed below some recent rents on office leases that took place in Harlem.

1. Saint Lukes Hospital
2771 Frederick Douglass Boulevard, NY, NY
Leased 3,000 Square Feet @ \$30 per square foot
Signed a lease 9/4/09
2. Con Edison
122 East 124th Street, NY, NY
Leased 12,500 Square Feet @ \$29 per square foot
Signed a lease 6/10/09
3. Learn It Systems
1825 Park Avenue, NY, NY
Leased 2,425 square feet @ \$35 per square foot
Signed a lease in 2009
4. Single Stop USA
1825 Park Avenue, NY, NY
Leased 4,500 square feet @ \$35 per square foot
Signed a lease in 8/14/08

If you have any questions, feel free to contact me anytime.

Sincerely,

Jeffrey Schettino →



April 21, 2010

To: Ron Winters, Paul Gallese, Restructuring - Healthcare Investigatory

From: Seth Markowitz

Re: North General Hospital - Fair Market Rent and Estimated Expenses

The subject property is North General Hospital comprised of approximately 255,000 gross square feet and a 28,000 square foot annex building. The premises in question concern a reported 17,000 (to possibly over 22,000) square foot space (actual size to be determined), known as "the demised premises" that are intended to be leased to the Institute for Family Health. The demised premises are reportedly built-out as medical office use with plumbing in most rooms and in "turn-key" condition. North General Hospital is situated in the Harlem Office market which is comprised of office product which, relative to other Manhattan submarkets, varies widely in quality and location. Estimates contained herein pertain to the demised premises of 17,000 to 22,000 square feet. Larger/smaller spaces on other floors and/or spaces leased to varying uses other than medical office, may feature varying market rents.

This analysis intends to:

Section 1) Provide market evidence and conclude to a market rent for the demised premises.

Section 2) Estimate market expenses for three "use" scenarios.

Section 1

Fair Market Rent – Comparable Evidence and Market Support

The following leases represent transactions comparable to medical office space at North General Hospital. According to local office brokers Jeff Schettino and Elizabeth Martin, premiums for medical office relative to general office use are non-existent in the Harlem office market.

Comparable Rents

	<u>Square Feet</u>	<u>\$/sf</u>	<u>Lease Signed</u>	<u>Term</u>	<u>Expenses</u>	<u>TI's</u>	<u>Esc</u>	<u>Free Rent</u>
Lukes Hospital 2771 Frederick Douglas Blvd NY NY	3,000	30	9/4/2009	15 years	Tenant pays Electric + Taxes over BY	None	3%	6 months
Park Ave Medical 1767 park ave	5,000	18	5/5/2009	5 Years	Tenant pays direct elec. Exp over BY Tax	Tenant performed approx \$45/sf in build-out	\$1.75 bumps equating to \$18/sf	6 months
Learn It Systems 1825 Park Avenue NY NY	2,425	35	2009	3 years	Tenant pays add'l 3.50/sf for elec	None	3%	None
Single Stop USA 1825 Park Avenue NY NY	4,500	35	8/14/2008	5 Years	Tenant pays add'l 3.50/sf for elec	\$60k HVAC system	3%	3 months

Lease #1 was leased to Saint Luke's Hospital at a rate of \$30 per square foot with standard escalations of 3% and 6 months free rent. The space is ground floor with street access, reportedly similar to the subject site.

Lease #2 was leased to Park Ave Medical for medical office use. Tenant was responsible for all build-out.

Lease #3 was leased to a general office use tenant with no build-out reportedly required. As the space was not separately metered for electricity, the tenant was billed a flat fee of \$3.50/sf per year.

Lease #4 was leased to a general office use tenant with no build-out reportedly required. As the space was not separately metered for electricity, the tenant was billed a flat fee of \$3.50/sf per year.

The above leases were verified with parties involved in the transactions.

Fair Market Rent – Net Effective Rent and Market Rent Conclusion

The following table reflects the net effective rent of the lease comparables as they are applied to the subject space. Net effective rent is defined as “the amount of rent a tenant actually pays when extra improvement allowances and other concessions are taken into account”. Therefore, the effective rent reflects the true range of typical office space in the subject market after all variables are quantified and adjusted.

Rent	Adjustment	Effective Rent	Adjustment Description
\$30	-1.00	\$28.00	Downward adjustment for 6 months free rent
\$18	8.92	\$26.92	Upward adjustment for amortized tenant's build-out and downward adjustment for free rent.
\$35	0	\$35.00	No adjustments
\$35	-3.16	\$31.84	Downward adjustment for HVAC Unit in TI's (\$60K amortized over 5 years at 6% interest)
		\$30.00	Concluded Market Rent

In conclusion, the net effective rent indicates a range of \$26.92 to \$35.00 per square foot for the subject space. A market rent selection at the midpoint of the range of \$30.00 per square foot is considered reasonable. In addition to evidence provided in the above lease analysis, the rate of \$30 per square foot was verified with local market experts: Jeff Schettino of Giscombe Realty, Elizabeth Martin of EL Martin Partners and Steven Sunderland of Optimal Spaces, all of which lease office space in the Harlem Office Market. The market rent selection of \$30.00 per square foot includes all expenses except for electricity and taxes (which are typically marginal). According to Steven Sunderland of Optimal Spaces, a range in rental rates between \$18 and \$45 per square foot are feasible for the space and is dependent upon specific users looking for space during the marketing period.

In the case of the lease in question (Institute for Family Health) an additional flat fee for utilities of between \$3.50 psf to \$5.12 psf would be appropriate. The lower end of the range of \$3.50 is exhibited in lease comparables #3 and #4 as the flat amount charged to tenants for general office use. \$5.12 psf is the higher end of the range as it represents the expenditure per square foot for the range of medians and means for the space. To equate the subject space to the indicated comparable rents, an “additional rent” is included to account for utilities (and “would-be” BY Tax escalations) as the demised premises is not separately metered. A range for additional rent/utilities between \$4.00 and \$4.50 psf would be appropriate to equate the subject space to market rent.

Section 2

Estimated Expenses (Three Scenarios)

The subject property was formerly occupied by North General Hospital and was operated as round-the-clock ambulatory, medical and hospital use. There are three scenarios presented in the following chart to estimate expenses attributed to real estate / non-going concern expenses. Please note that the appraiser is not qualified to estimate expenses of the property as a hospital due to lack of comparable data. The expenses provided are actual for the subject facility when operated as a hospital. The chart following the below descriptions estimates:

Scenario 1) **As-If Vacant** - Reported expenses of the going concern are compared to the BOMA 2008 report on New York Office buildings. The subject expenses exhibit the going concern of a building as a hospital. The indicated BOMA expenses are provided and subsequently adjusted to reflect the operation of the subject facility as-is vacant. Where appropriate, expenses are selected based on BOMA conclusions or expenses provided from YE 2008 financials of the property when operated as a hospital.

Scenario 2) An estimate of yearly expenses attributed to **the demised 17,000 to 23,000 +/- square feet** with the intended use as a medical office facility. Estimated expenditures were applied to the demised premises. Reportedly, the demised premises could be extended to over 20,000 square feet, in which case the expenditure per square foot would be applied to that size space. Where appropriate, expenses are selected based on BOMA conclusions or expenses provided from YE 2008 financials of the property when operated as a hospital.

Scenario 3) An estimate of expenditures of the facility **as if leased to a nursing facility**. – Expenditures are based upon comparables of nursing facilities throughout New York State and reflect an allocation of those expenditures to the real estate only.

Actual Expenses of North General Hospital (Going Concern) YE 2008	BOMA 2009 Experience Exchange Report (As OFFICE) Total Bldg Rentable Area		BOMA 2009 Experience Exchange Report (As OFFICE) Total Office Rentable Area		Scenario 1 AS A VACANT BUILDING (Estimated)		Scenario 2 Yearly Expenses for the Demised/To be Leased Premises (Estimated)		Scenario 3 Entire Building as Nursing Facility			
	Yearly	\$/sf	Avg	Median	Avg	Median	\$/sf	Yearly	\$/sf	Yearly	\$/sf	Yearly
Cleaning			\$2.77	\$2.77	\$2.87	\$2.90	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M	Incl in R&M
R&M (incl payroll)	449,960	\$1.59	3.12	3.22	3.49	3.38	3.00	\$849,000	\$3.00	Rate x Sq Ft	\$3.00	849,000
Utilities (Subtotal of Below)	2,185,021	7.72	4.49	3.79	5.12	4.13		Incl Below	Incl Below	Incl Below	5.00	1,415,000
Electricity	1,564,530	5.53	incl above	incl above	incl above	incl above	1.50	424,500	4.25	Rate x Sq Ft	Incl. Above	Incl. Above
Gas	509,115	1.80	incl above	incl above	incl above	incl above	0.24	67,920	1.00	Rate x Sq Ft	Incl. Above	Incl. Above
Water Sewer	111,375	0.39	incl above	incl above	incl above	incl above	0.39	111,375	0.25	Rate x Sq Ft	Incl. Above	Incl. Above
Security	1,549,667	5.48	0.98	0.93	1.04	0.94	1.00	283,000	1.00	Rate x Sq Ft	1.00	283,000
Management	473,447	1.67	0.47	0.27	0.50	0.36	0.25	70,750	0.41	Rate x Sq Ft	0.50	141,500
Admin	N/A	N/A	1.00	0.99	1.06	1.03	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt	Incl in Mgt
Taxes	Exempt		7.58	7.20	7.98	7.20	Exempt	Exempt	Exempt	Exempt	Exempt	Exempt
Insurance	615,040	2.17	0.69	0.52	0.73	0.56	1.00	283,000	1.00	Rate x Sq Ft	0.96	271,680
Reserves	N/A						0.89	251,870	\$0.89	Rate x Sq Ft	0.89	251,870
Total	\$ 7,008,195	\$ 24.76	\$21.10	\$19.69	\$22.79	\$20.50	\$8.27	\$2,841,415	\$11.80	N/A	\$ 11.35	\$ 3,212,050

Reserves for Office Buildings range from \$0.10 to \$1.00 psf and average \$0.36 psf (per 1st Qtr 2010 Korpacz Survey)

Cleaning per BOMA includes all Payroll, taxes, Fringes, Routine Contracts, Window Washing

Client: Martin Winter, Ron Winters, Paul Gallese,
Restructuring - Healthcare Investigatory

Date of Report: April 21, 2010

Subject Property 1879 Madison Avenue New York, NY 10035

Intended Users: Alvarez and Marsal -Healthcare Investigatory

Intended Use: To assist Healthcare Investigatory Group with internal decision making and budgeting.

Objective of the Assignment: To develop an opinion of market rent for one portion of the subject facility and an estimate of expenses.

Effective Date of Value Opinion: April 21, 2010

Interest Valued: Market Rent

Conditions of the Assignment:

Extraordinary Assumptions: None

Hypothetical Conditions: None

Opinion of Market Rent: \$30 psf + \$4.25 in Additional Rent per Year

Based on the scope of work cited below, as of the effective date noted, and subject to the extraordinary assumptions and hypothetical conditions listed.

SCOPE OF WORK

In preparing this appraisal, the appraiser

- Did not inspect the subject site and assumes the property to be in adequate condition that is ready for occupancy, as reported to appraiser;
- gathered information on, rents and operating expenses
- confirmed all rental information with at least one of the parties to the transaction;
-

This report is a Summary Appraisal Report in accordance with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice. As such, it presents sufficient information to enable the client and other intended users, as identified, to understand it properly.

Certification:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
 - the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
 - I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
 - I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
 - my engagement in this assignment was not contingent upon developing or reporting predetermined results.
 - my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
 - my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
 - I have not made a personal inspection of the property that is the subject of this report
 - No one provided significant real property appraisal assistance to the person signing this certification.
-
- I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
 - I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
 - As of the date of this report, I have completed the continuing education program of the Appraisal Institute.



Seth Markowitz

New York State Certified General Appraiser # 46000042433

Attachment 9-II-B-1

Sources of Cash for Year 1

<u>TYPE</u>	<u>AMOUNT</u>	<u>EXPLANATION</u>
Government Grants	\$7,500,000	Operating Loss, Working Capital and Start up. The Implementation of this program is dependent upon the approval of HEAL Grant Funding from NYS DOH.
Other	\$2,000,000	Operating loss for the Ralph Lauren Cancer Center. Funding is committed from Polo Ralph Lauren Corporation and Memorial Sloan Kettering Cancer Center.
TOTAL CASH	\$9,500,000	

McGladrey & Pullen
Certified Public Accountants

The Institute for Family Health, Inc.

Financial Report

December 31, 2008

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Introduction

Background

The Institute for Family Health, Inc. (the "Institute") is an organization located in New York City that provides medical and healthcare services through the development and operation of family practice centers located in Manhattan, Bronx, Dutchess and Ulster counties and provides residency medical training in New York City and Kingston, New York and other health research programs.

Scope of Audit

The financial audit of the Institute was performed in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. The audit covered the 12-month period ended December 31, 2008 and fieldwork was performed during the period from February 23, 2009 to March 27, 2009.

The following were the principal objectives of the organization-wide audit:

- The expression of an opinion on the balance sheet as of December 31, 2008, and the related statements of operations and changes in net assets, functional expenses, and cash flows for the year then ended;
- The expression of an opinion on the schedule of expenditures of federal awards for the year ended December 31, 2008;
- The assessment of the Institute's internal accounting and administrative control structures;
- The performance of cost validations of transaction costs on a test basis;
- The assessment, on a test basis, of the Institute's compliance with the prescribed U.S. Department of Health and Human Services cost principles (45 CFR 74, as amended, subpart Q) for selected functional types of costs; and
- To ascertain whether costs claimed for funding under specific grants are fairly presented in conformity with the terms of the grant and related U.S. Department of Health and Human Services cost principles.

McGladrey & Pullen

Certified Public Accountants

Independent Auditor's Report

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the accompanying balance sheet of The Institute for Family Health, Inc. (the "Institute") as of December 31, 2008, and the related statements of operations and changes in net assets, functional expenses, and cash flows for the year then ended. These financial statements are the responsibility of the Institute's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of The Institute for Family Health, Inc. as of December 31, 2008, and the changes in its net assets and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 30, 2009 on our consideration of the Institute's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Balance Sheet
December 31, 2008

ASSETS

Current Assets:

Cash and cash equivalents	\$ 2,843,061
Investments at fair value	
Patient services receivable, net of allowances of approximately \$14,768,000	13,276,525
Grant and contract receivables (Note 3)	2,777,324
Hospital service contracts receivable	500,493
Other receivables	1,052,359
Prepaid expenses and other current assets	833,378

Total current assets 21,283,140

Goodwill 2,998,806

Deferred Bond Issue Cost 726,098

Debt Service Reserve Fund 847,152

Property and Equipment, net (Note 4) 7,004,665

Total assets \$ 32,859,861

LIABILITIES AND UNRESTRICTED NET ASSETS

Current Liabilities:

Accounts payable and accrued expenses	\$ 4,996,335
Accrued compensation	1,830,771
Current maturities of long-term debt (Note 6)	528,067
Loan payable (Note 5)	630,000
Refundable advances	1,528,903

Total current liabilities 9,514,076

Loan Payable (Note 5) 800,000

Long-term Debt, less current maturities (Note 6) 8,226,884

Total liabilities 18,540,960

Commitments and Contingencies (Notes 4, 10 and 11)

Unrestricted Net Assets 14,318,901

Total liabilities and unrestricted net assets \$ 32,859,861

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Operations and Changes in Net Assets
Year Ended December 31, 2008

Revenue:	
Patient services, net (Note 7)	\$ 33,532,072
Hospital service contracts (Note 8)	4,567,608
Grants and contracts (Note 9)	12,481,400
Management fees	126,472
Unrealized loss on investments	(278,260)
Interest and dividend income	81,288
Other	854,296
	<hr/>
Total revenue	51,364,876
Expenses:	
Salaries and benefits	34,896,190
Other than personnel services	12,350,587
Interest	732,043
Provision for bad debts	2,048,443
	<hr/>
Total expenses	50,027,263
Operating income prior to depreciation and amortization	1,337,613
Depreciation and Amortization	<hr/>
	740,047
Operating income	597,566
Unrestricted Net Assets:	
Beginning	<hr/>
	13,721,335
Ending	<hr/>
	\$ 14,318,901

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Functional Expenses
Year Ended December 31, 2008

	<u>Program Services</u>	<u>General and Administrative</u>	<u>Total</u>
Salaries and wages	\$ 25,005,837	\$ 4,643,332	\$ 29,649,169
Fringe benefits	3,349,950	1,897,071	5,247,021
Consultants and contractual services	2,794,845	762,464	3,557,309
Professional fees	-	552,452	552,452
Travel, conferences and meetings	350,403	143,238	493,641
Occupancy	2,305,352	880,346	3,185,698
Consumable supplies	2,462,030	213,397	2,675,427
Insurance	373,852	36,366	410,218
Equipment rental and maintenance	223,418	65,789	289,207
Printing, publications and postage	83,003	87,192	170,195
Dues	191,628	28,726	220,354
Interest	542,574	189,469	732,043
Provision for bad debts	2,048,443	-	2,048,443
Other	454,852	341,234	796,086
	<u>40,186,187</u>	<u>9,841,076</u>	<u>50,027,263</u>
Depreciation and amortization	610,874	129,173	740,047
Total functional expenses	<u><u>\$ 40,797,061</u></u>	<u><u>\$ 9,970,249</u></u>	<u><u>\$ 50,767,310</u></u>

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Statement of Cash Flows
Year Ended December 31, 2008

Cash Flows From Operating Activities:	
Cash received from patient services	\$ 28,632,771
Cash received from hospital service contracts	4,331,057
Cash received from grants and contracts	13,412,514
Cash received from other	854,296
Cash received from management services	126,472
Interest and dividend income	81,288
Cash paid for interest	(732,043)
Cash paid for operations	<u>(48,563,160)</u>
Net cash used in operating activities	<u>(1,856,805)</u>
Cash Flows From Investing Activities:	
Purchase of property and equipment	(132,265)
Decrease in debt service reserve	<u>203,089</u>
Net cash provided by investing activities	<u>70,824</u>
Cash Flows From Financing Activities:	
Proceeds on line of credit	332,554
Repayments of long-term debt	<u>(845,893)</u>
Net cash used in financing activities	<u>(513,339)</u>
Net decrease in cash and cash equivalents	(2,299,320)
Cash and Cash Equivalents:	
Beginning	<u>5,142,381</u>
Ending	<u>\$ 2,843,061</u>
Reconciliation of Increase in Unrestricted Net Assets to Net Cash Used in Operating Activities:	
Increase in unrestricted net assets	<u>\$ 597,566</u>
Adjustments to reconcile increase in unrestricted net assets to net cash used in operating activities:	
Depreciation and amortization	740,047
Provision for bad debts	2,048,443
Unrealized loss on investments	128,551
Changes in operating assets and liabilities:	
Increase in patient services receivable, net	(4,899,301)
Decrease in grants and contracts receivable	233,066
Increase in hospital service contracts receivable	(236,551)
Increase in other receivables	(1,319,710)
Decrease in prepaid expenses and other current assets	176,563
Decrease in accounts payable and accrued expenses	(73,448)
Decrease in accrued compensation	(99,788)
Increase in refundable advances	<u>847,757</u>
Total adjustments	<u>(2,454,371)</u>
Net cash used in operating activities	<u>\$ (1,856,805)</u>
Noncash Transactions:	
Donated stock	<u>\$ 149,709</u>

See Notes to Financial Statements.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 1. Organization

The Institute for Family Health, Inc. (the "Institute") is a New York not-for-profit corporation that provides medical and healthcare services through the development and operation of family practice centers located in Manhattan, Bronx, Dutchess and Ulster counties and provides residency medical training in New York City and Kingston, New York and other health research programs.

Note 2. Significant Accounting Policies

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

The Institute maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The Institute has not experienced any losses in such accounts. Cash equivalents are short-term investments with a maturity of three months or less.

Patient services receivable are reported at their outstanding unpaid principal balances reduced by an allowance for doubtful accounts. The Institute estimates doubtful accounts based on historical bad debts, factors related to specific payors' ability to pay and current economic trends. The Institute writes off accounts receivable against the allowance when a balance is determined to be uncollectible.

Goodwill represents the excess of the acquisition cost of businesses over the fair value of the identifiable net assets acquired. The Institute applies SFAS No. 142, *Goodwill and Other Intangible Assets*, and, accordingly, does not amortize goodwill but tests it for impairment. The Institute performs impairment testing for goodwill annually, or more frequently when indicators of impairment exist, using a two-step approach. Step one compares the fair value of the net assets of the relevant reporting unit (calculated using a discounted cash flow method) to its carrying value, a second step is performed to compute the amount of the impairment. In this process, a fair value for goodwill is estimated based in part on the fair value of the operations, and is compared to its carrying value. The shortfall of the fair value below carrying value represents the amount of goodwill impairment.

Property and equipment is recorded at cost. Depreciation is recorded on a straight-line basis over the estimated useful lives of the assets ranging from 5 to 40 years. Leasehold improvements are amortized on a straight-line basis over the estimated useful life of the improvement or the term of the lease, whichever is less. The Institute capitalizes all repairs over \$1,000.

Contributions are recorded as either temporarily or permanently restricted revenue if they are received with donor stipulations that limit the use of the donated asset. When a donor restriction expires, that is, when a stipulated time restriction ends or purpose restriction is accomplished, temporarily restricted assets are reclassified to unrestricted net assets and reported in the statement of operations and changes in net assets as net assets released from restrictions. Donor-restricted contributions whose restrictions expire during the same fiscal year are recognized as unrestricted revenue.

Patient services revenue is reported at the estimated net realizable amounts from patients, third-party payors and others for services rendered. Self-pay revenue is recorded at published charges with charitable allowances deducted to arrive at net self-pay revenue. All other patient services revenue is recorded at published charges with contractual allowances deducted to arrive at patient services, net. In 2008, income derived from the Medicaid program accounted for approximately 18% of net patient services fees.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 2. Significant Accounting Policies (Continued)

Revenue from government grants and contracts designated for use in specific activities is recognized in the period when expenditures have been incurred in compliance with the grantor's restrictions. Grants and contracts awarded for the acquisition of long-lived assets are reported as unrestricted nonoperating revenue, in the absence of donor stipulations to the contrary, during the fiscal year in which the assets are acquired. Cash received in excess of revenue recognized is recorded as refundable advances. At December 31, 2008, the Institute has received conditional grants and contracts from governmental entities in the aggregate amount of \$7,281,172 that have not been recorded in these financial statements. These grants and contracts require the Institute to provide certain healthcare services during specified periods. If such services are not provided during the periods, the governmental entities are not obligated to expend the funds allotted under the grants and contracts.

The Institute was incorporated as a not-for-profit corporation under the laws of the State of New York and is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code. Therefore, there is no provision for income taxes.

In June 2006, the Financial Accounting Standards Board (the "FASB") issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes - an interpretation of FASB Statement No. 109* ("FIN 48"). FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements in accordance with FASB Statement No. 109, *Accounting for Income Taxes*. FIN 48 prescribes a comprehensive model for recognizing, measuring, presenting and disclosing in the financial statements tax positions taken or expected to be taken on a tax return including positions that the organization is exempt from income taxes or not subject to income taxes on unrelated business income. If there are changes in net assets as a result of application of FIN 48, these will be accounted for as an adjustment to the opening balance of net assets. Additional disclosures about the amounts of such liabilities will be required also. The Institute presently discloses or recognizes income tax positions based on management's estimate of whether it is reasonably possible or probable, respectively, that a liability has been incurred for unrecognized income tax benefits by applying FASB Statement No. 5, *Accounting for Contingencies*. The Institute has elected to defer the application of FIN 48 in accordance with FASB Staff Position ("FSP") FIN 48-3. This FSP defers the effective date of FIN 48 for nonpublic enterprises, such as the Institute, included within its scope to the annual financial statements for fiscal years beginning after December 15, 2008. The Institute will be required to adopt FIN 48 in its 2009 annual financial statements. Management is currently assessing the impact of FIN 48 on its financial position and results of operations and has not determined if the adoption of FIN 48 will have a material effect on its financial statements.

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* ("SFAS No. 157"). SFAS No. 157 defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurement. SFAS No. 157 also emphasizes that fair value is a market-based measurement, not an entity-specific measurement, and sets out a fair value hierarchy with the highest priority being quoted prices in active markets. Under SFAS No. 157, fair value measurements are disclosed by level within that hierarchy. In February 2008, the FASB issued FASB Staff Position No. 157-2, *Effective Date of FASB Statement No. 157*, which permits a one-year deferral for the implementation of SFAS No. 157 with regard to nonfinancial assets and liabilities that are not recognized or disclosed at fair value in the combined financial statements on a recurring basis. The Institute adopted SFAS No. 157 for the fiscal period beginning January 1, 2008, except for nonfinancial assets and nonfinancial liabilities that are recognized or disclosed at fair value in the combined financial statements on a nonrecurring basis for which delayed application is permitted until our fiscal year beginning January 1, 2009. The adoption of the remaining provisions of SFAS No. 157 is not expected to have a material impact on the Institute's financial position, results of operations or cash flows.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 3. Grants and Contracts Receivable

Grants and contracts receivable consist of the following as of December 31, 2008:

U.S. Department of Health and Human Services (the "DHHS"):	
Reach - Diabetes Coalition Grant	\$ 62,879
New York Reach CEED	187,236
HRSA Health Information Technology Innovations	11,120
New York State Department of Health (the "NYSDOH"):	
Office of Managed Care	37,769
NYSDOH School Health	26,551
NYSDOH Healthy Hearts Program	19,865
NYSDOH Community Health Worker Program	48,013
NYS Rural Health Network	158,939
Center of Excellence	239,615
Department of Social Services of the Human Resources Administration:	
Federation Employment and Guidance Service, Inc.	420,307
Health Care for the Homeless Project	96,794
Area Health Education Center Program (HRSA)	29,718
NYS Office for Children and Family Services Healthy Start - Ulster County	599,016
NYS Office for Children and Family Services Health Families - Dutchess	76,521
Ryan White Title I, MHRA (Maintenance in Care)	26,972
Ryan White Title I (Treatment Adherence)	75,760
Dutchess County HIV Ryan White	36,797
New York State Office of Mental Health	79,350
Health Workforce Retraining Initiative	39,236
Ali Forney Center	34,671
Family Medical Services	40,000
Kingston Residency Program	144,083
Other	286,112
	<hr/>
	\$ 2,777,324

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 4. Property and Equipment, Net

Property and equipment, net, at cost, consists of the following at December 31, 2008:

Land	\$ 225,000
Building and building improvements	7,859,672
Leasehold improvements	3,115,474
Furniture and equipment	<u>8,070,467</u>
	19,270,613
Accumulated depreciation and amortization	<u>(12,265,948)</u>
	<u>\$ 7,004,665</u>

In the event the DHHS grants are terminated, the DHHS reserves the right to transfer all property and equipment purchased with grant funds and/or grant-related income to the Public Health Service (the "PHS") or third parties.

Note 5. Loan Payable

In November 2007, the Institute entered into a line of credit in the amount of \$1,500,000, secured by the gross receipts of the Institute. As of October 31, 2008 the line of credit was modified to a note with \$630,000 due in October 31, 2009 and the remaining \$800,000 due in October 31, 2010. There was an outstanding balance of \$1,430,000 at December 31, 2008. This agreement requires a fluctuating interest rate of 200 basis points per annum above the LIBOR until the maturity date.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 6. Long-Term Debt

Long-term debt consists of the following as of December 31, 2008:

Promissory note payable of \$562,500 to Primary Care Development Corporation, maturing April 1, 2010. Terms of the note provide for monthly payments of principal and interest, calculated at 5.5% until maturity.

\$ 162,470

Mortgage payable with the Ulster County Industrial Development Agency Bond (the "Bond"), which was transferred from Mid-Hudson, with a \$4,250,000 face amount, due July 1, 2023. The mortgage is payable in monthly installments of \$25,484 with interest at 5.35% per annum and administrative fees. This mortgage is secured by real property.

3,027,994

Mortgage payable with Primary Care Development Corporation ("PCDC") to finance the purchase of certain assets of Mid-Hudson, with a face amount of \$3,420,000. The maturity date of the mortgage is September 1, 2022, with principal and interest payable in monthly installments of \$30,549 at the stated interest rate of 6.90%. The mortgage is secured by the gross receipts, chattels and intangibles of the Institute.

3,238,141

Mortgage payable with PCDC to finance the purchase of certain assets of Mid-Hudson, with a face amount of \$2,380,000. The maturity date of the mortgage is September 1, 2022, with principal and interest payable in monthly installments of \$21,259 at the stated interest rate of 6.90%. The mortgage is secured by the gross receipts, chattels and intangibles of the Institute.

2,253,442

Various loans

72,904

8,754,951

Less current maturities of long-term debt

(528,067)

Long-term portion

\$ 8,226,884

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 6. Long-Term Debt (Continued)

The aggregate amount of future principal payments on long-term debt is as follows:

Years ending December 31,

2009	\$ 528,067
2010	479,629
2011	442,551
2012	471,970
2013	503,364
Thereafter	<u>6,329,370</u>
	<u><u>\$ 8,754,951</u></u>

Note 7. Patient Revenue

	<u>Gross Charges</u>	<u>Contractual and Charitable Allowances</u>	<u>Net Revenue</u>
Medicaid	\$ 6,553,705	\$ 723,805	\$ 5,829,900
Medicare	4,556,999	977,479	3,579,520
Other third-party payors	21,513,806	6,217,518	15,296,288
Self-pay	3,634,353	1,249,976	2,384,377
Managed care plans	<u>3,166,056</u>	<u>-</u>	<u>3,166,056</u>
	39,424,919	9,168,778	30,256,141
Pharmacy			379,947
Incentives			28,518
Medicaid Managed Care Transitional Funding			<u>2,867,466</u>
			<u><u>\$ 33,532,072</u></u>

Note 8. Hospital Service Contracts

Hospital service contracts consist of the following for the year ended December 31, 2008:

Beth Israel Medical Center contract	\$ 2,838,612
Kingston Residency	<u>1,728,996</u>
	<u><u>\$ 4,567,608</u></u>

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 9. Grants and Contracts Revenue

U.S. Department of Health and Human Services:	
New York Racial and Ethnic Approaches to Community Health 2010 CEED	\$ 859,704
330 Program, Health Center Cluster, Bureau of Primary Care, HRSA	3,000,593
NIH, National Center on Minority Health and Health Disparities	373,788
HRSA Health Information Technology Innovations	280,074
New York State Department of Health (NYSDOH):	
NYSDOH School Health	108,133
NYSDOH Healthy Hearts Program	74,415
NYSDOH Community Health Worker Program	222,614
NYS Rural Health Network	204,136
Health Workforce Retraining Initiative	168,538
NYC Department of Social Services of the Human Resources Administration:	
Federation Employment and Guidance Service, Inc.	1,404,163
NYS Area Health Education Center Program (HRSA)	75,998
Catskill Hudson Area Health Education Center Program (HRSA)	85,681
Medical and Health Research Association of New York City (MHRA):	
Ryan White Title I, MHRA (Outpatient Medical Care)	247,411
Ryan White Title I, MHRA (Maintenance in Care)	192,659
Ryan White Title I (Treatment Adherence)	186,499
Ryan White Title II, NYS AIDS Institute (Mental Health)	16,781
Ryan White Title II, BCSS	160,237
Dutchess County HIV Ryan White	184,108
New York City Department of Health and Mental Hygiene:	
Center of Excellence	119,615
Vaccines for Children Program	410,150
Health Care for the Homeless Project	493,116
NYS DOH Facilitated Enrollment	38,200
New York Community Trust	67,355
The Altman Foundation	46,742
Kingston School District	75,401
NYS Office for Children and Family Services Healthy Start - Ulster County	1,021,663
NYS Office for Children and Family Services Health Families - Dutchess	720,984

(continued)

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 9. Grants Revenue (Continued)

New York State Office of Mental Health	\$ 105,800
NYC DOHMH - HEAL I funds for EHR Innovations	129,804
Ali Forney Center	67,293
NYSDOH Diabetes Prevention and Control	73,676
Commonwealth Fund	118,471
Reproductive Health	104,368
National Association of Community Health Centers (HealthCorp)	30,228
New York State Health Care Reform Act	79,974
New York State Health Foundation - Diabetes Campaign	112,841
Epic grant	400,000
Other	420,187
	<hr/>
	\$ 12,481,400

Note 10. Pension Plan

The Institute has a noncontributory profit-sharing plan which covers all employees meeting certain eligibility requirements. Contributions to the plan are based on a percent of salaries. The board of directors voted to make a contribution to the profit-sharing plan for the year ended December 31, 2008 in the amount of \$400,000.

Note 11. Commitments and Contingencies

The Institute has contracted with various funding agencies to perform certain healthcare services and receives Medicaid and Medicare revenue from the state and federal governments. Reimbursements received under these contracts and payments under Medicaid and Medicare are subject to audit by federal and state governments and other agencies. Upon audit, if discrepancies are discovered, the Institute could be held responsible for refunding the amounts in question.

The Institute maintains its medical malpractice coverage under the Federal Tort Claims Act ("FTCA") for its Community Health Center program activities. FTCA provides malpractice coverage to eligible PHS-supported programs and applies to the Institute and its employees while providing services within the scope of employment included under grant-related activities. The Attorney General, through the U.S. Department of Justice, has the responsibility for the defense of the individual and/or grantee for malpractice cases approved for FTCA coverage. The Institute maintains gap insurance for claims that are not covered by FTCA.

Medicaid and Medicare revenue is reimbursed to the Institute at the net reimbursement rates as determined by each program. Reimbursement rates are subject to revisions under the provisions of reimbursement regulations. Adjustments for such revisions are recognized in the fiscal year incurred.

The Institute leases office space from Family Life Ventures and is charged a pro rata percentage of the building operating costs. For the year ended December 31, 2008, the Institute incurred \$437,711 during the year in rental costs. At December 31, 2008, a receivable of \$6,326, is due from Family Life Ventures and is included other receivables. Three employees/officers of the Institute are owners of Family Life Ventures.

The Institute for Family Health, Inc.

Notes to Financial Statements

Note 11. Commitments and Contingencies (Continued)

The Institute leases five other facilities. Occupancy expense for the year ended December 31, 2008 amounted to \$2,129,926. All facilities are operated under noncancelable operating leases requiring future minimum payments as follows:

Years ending December 31,

2009	\$ 220,575
2010	140,052
2011	13,310
2012	13,310
2013	13,310
Thereafter	<u>465,167</u>
	<u>\$ 865,724</u>

McGladrey & Pullen
Certified Public Accountants

The Institute for Family Health, Inc.

Internal Controls and Compliance Section

December 31, 2008

McGladrey & Pullen

Certified Public Accountants

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the financial statements of The Institute for Family Health, Inc. (the "Institute") as of and for the year ended December 31, 2008, and have issued our report thereon dated September 30, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting - In planning and performing our audit, we considered the Institute's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Institute's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Institute's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters - As part of obtaining reasonable assurance about whether the Institute's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the Institute in a separate letter dated September 30, 2009.

This report is intended solely for the information and use of the board of directors, management and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

McGladrey & Pullen

Certified Public Accountants

Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

Compliance - We have audited the compliance of The Institute for Family Health, Inc. (the "Institute") with the types of compliance requirements described in the U.S. Office of Management and Budget ("OMB") *Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended December 31, 2008. The Institute's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the Institute's management. Our responsibility is to express an opinion on the Institute's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Institute's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the Institute's compliance with those requirements.

In our opinion, the Institute complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended December 31, 2008.

Internal Control Over Compliance - The management of the Institute is responsible for establishing and maintaining effective internal control structure over compliance with the requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the Institute's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Institute's internal control over compliance.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by any entity's internal control.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the board of directors, management and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Schedule of Findings and Questioned Costs
Year Ended December 31, 2008

Section I - Summary of Auditor's Results

Financial Statements

Type of auditor's report issued:

Unqualified

Internal control over financial reporting:

- Material weakness(es) identified? yes no
- Significant deficiency(ies) identified that are not considered to be material weakness(es)? yes none reported

Noncompliance material to financial statements noted?

yes no

Federal Awards

Internal control over major programs:

- Material weakness(es) identified? yes no
- Significant deficiency(ies) identified that are not considered to be material weakness(es)? yes none reported

Type of auditor's report issued on compliance for major programs:

Unqualified

Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of Circular A-133?

yes no

Identification of major program(s):

CFDA Number(s)

93.224

93.283

93.268

93.914

93.307

93.558

Name of Federal Program or Cluster

United States Department of Health and Human Services:

Consolidated Health Centers program
Center for Disease Control and Prevention:
Investigations and Technical Assistance
Immunization Grants
HIV Emergency Relief Project Grants
Minority Health and Health Disparities
Temporary Assistance for Needy Families

Dollar threshold used to distinguish between type A and type B programs:

\$300,000

Auditee qualified as low-risk auditee?

yes no

(continued)

The Institute for Family Health, Inc.

**Schedule of Findings and Questioned Costs
Year Ended December 31, 2008**

Section II - Financial Statement Findings

None

Section III - Federal Award Findings and Questioned Costs

None

The Institute for Family Health, Inc.

**Status of Prior-Year's Findings
Year Ended December 31, 2008**

Item #	Description of Condition	Status of Corrective Action
07-1	Bad Debt Write-offs	This action has been corrected in the current year.
07-2	Federal Drawdowns	This action has been corrected in the current year.
07-3	Financial Status Report	This action has been corrected in the current year.
07-4	Property Management Standards	This action has been corrected in the current year.

McGladrey & Pullen

Certified Public Accountants

Independent Auditor's Report on Supplementary Information - Schedule of Expenditures of Federal Awards

To the Board of Directors
The Institute for Family Health, Inc.
New York, New York

We have audited the basic financial statements of The Institute for Family Health, Inc. for the year ended December 31, 2008, and those statements, together with our opinion thereon, appear in the first section of this report. Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

McGladrey & Pullen, LLP

New York, New York
September 30, 2009

The Institute for Family Health, Inc.

Supplementary Information

Schedule of Expenditures of Federal Awards
Year Ended December 31, 2008

Federal Grantor/ Pass-Through Grantor/ Program Title	CFDA Number	Pass-Through Grantor's Number	Expenditures
U.S. Department of Health and Human Services:			
Consolidated Health Centers program:			
Direct program:			
Consolidated Health Centers program	93.224	N/A	\$ 3,280,668
Passed through Care for the Homeless:			
Consolidated Health Centers program	93.224	Not Available	<u>472,784</u>
Total Consolidated Health Centers program			3,753,452
Direct programs:			
New York Racial and Ethnic Approaches to Community Health 2010 CEED	93.283	5U58DP000943-02	859,704
Minority Health and Health Disparities	93.307	5R24MD001644-04	423,857
Mandated Health Information Technology Grants	93.888	1D1BIT10959-01	9,108
Passed through New York State Department of Health:			
Family Planning:			
Maternal and Child Health Services Block Grant	93.994	C022454/C021652	65,985
State Children's Health Insurance Program	93.767	Not Available	19,100
Medical Assistance Program (Medicaid)	93.778	C021363	130,407
Passed through New York State Department of Health:			
Division of Chronic Disease Prevention:			
Preventive Health and Health Services Block Grant	93.991	C020127	56,762
Passed through New York State Department of and Mental Hygiene:			
Center of Excellence	93.061	07HA1258007R0X00	119,615
Passed through Medical and Health Research Association of New York City:			
HIV Emergency Relief Project Grants	93.914	Various	816,163
Passed through Care for the Homeless:			
Passed through Health Research, Inc.:			
HIV Care Formula Grants	93.917	3428-01/001015-10	175,095
Passed through State University of New York at Buffalo:			
Basic/Core Area Health Education Services	93.824	Not Available	143,408
Passed through Ulster County Department of Social Services:			
Temporary Assistance for Needy Families	93.558	Various	1,186,103
			(continued)

The Institute for Family Health, Inc.

Supplementary Information

Schedule of Expenditures of Federal Awards
Year Ended December 31, 2008

Federal Grantor/ Pass-Through Grantor/ Program Title	CFDA Number	Pass-Through Grantor's Number	Expenditures
Passed through National Association of Community Health Centers: New York Community HealthCorps	94.006	06AFNY0010007	\$ 90,746
Passed through Development Disability Planning Council: Development Disabilities Basic Support and Advocacy	93.630	C022068	36,326
Passed through the City of New York Department of Health and Mental Hygiene: Immunization Grants (Note 3)	93.268	Not Available	<u>410,150</u>
Total U.S. Department of Health and Human Services			8,295,981
Total Passed through the Department of Housing and Urban Development: Housing Opportunities for Persons with AIDS	14.241		<u>67,293</u>
Total			<u>\$ 8,363,274</u>

Note 1: Basis of Presentation

The accompanying schedule of expenditures of federal awards includes the federal grant activity of the Institute and is presented on the accrual basis of accounting. The information in this schedule is presented in accordance with the requirement of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Therefore, some accounts presented in this schedule may differ from the amounts presented in, or used in the preparation of, the basic financial statements.

Note 2: Subrecipients

Of the federal expenditures presented in this schedule, the Institute provided federal awards to sub recipients as follows:

Program Title	Federal CFDA Number	Agency or Pass-Through Grantor's Number	Amount Provided to Subrecipient
New York University	93.283	N/A	\$ 84,867
City Harvest	93.283	N/A	9,972
Marc Academy	93.283	N/A	20,000
Other	93.283	N/A	<u>68,400</u>
			<u>\$ 183,239</u>

Note 3: Nonmonetary Assistance

Of the federal expenditures presented in this schedule, the Institute received \$410,150 from CFDA # 93.268 and is a noncash item.

Attachment 9-II-B-6

Government Grants

AMOUNT

\$7,500,000

DESCRIPTION

This amount is expected to be negotiated with the NYS DOH to effect this transition

**New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment**

For Article 28, 36, and 40 Construction Projects Requiring Full or Administrative Review *

Table 1: New Equipment Description

Sub project Number	Functional Code	Description, including model, manufacturer, year of manufacturer where applicable.	Number of units	Lease or purchase?	Date of the end of the lease period	Lease Amount or Purchase Price
		Standard Exam Room Equipment				
		Exam Table, MGM, Model 204	5 P			\$ 22,500.00
		Trash Can	29 P			\$ 1,276.00
		Red Waste Trash Can	29 P			\$ 1,247.00
		Chair, Patient, Midmark 680-001-238	45 P			\$ 3,750.00
		Stool, Exam, Midmark 272-001-230	29 P			\$ 3,915.00
		Exam Light	29 P			\$ 5,800.00
		Diagnostic System, Welch Allyn, 76793	29 P			\$ 30,000.00
		Standard Exam Room Equipment Sub total	195			\$ 68,488.00
		Standard Dental Exam Room Equipment				
		Pneu. Asst. Stl, BRWCUS	4 P			\$ 1,600.00
		X-Ray System, Long arm with remote control, 770, Gendex	4 P			\$ 14,400.00
		Cavitron, Plus	4 P			\$ 7,500.00
		Curing Light, Maxima LED	4 P			\$ 1,710.00
		Amalgamator, touch pad	4 P			\$ 1,140.00
		Standard Dental Exam Room Equipment sub total	20			\$ 26,350.00
		Additional Medical Equipment				

New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment

	Sterilizer		1 p		\$ 4,000.00
	Centrifuge		1 p		\$ 210.00
	Bariatric Scale Digital 500 by Health-o-meter		3 p		\$ 894.00
	ECG, Atria 3100		2 p		\$ 6,600.00
	Incubator, Biological Steam		1 p		\$ 138.00
	Fetal Doppler		2 p		\$ 1,040.00
	Exam Table Power Base, Midmark 230-001		1 p		\$ 6,600.00
	Sonogram		1 p		\$ 75,000.00
	(CLIA) Coagucheck		2 p		\$ 2,200.00
	(CLIA) Hemocue Glucose		2 p		\$ 500.00
	(CLIA) Hemocue Analyzer		2 p		\$ 1,000.00
	(CLIA) Clinitek		2 p		\$ 1,550.00
	Additional Medical Equipment Sub total		20		\$ 99,732.00
	Additional Dental Equipment				
	Rear Swing Vac		4 p		\$ 3,312.00
	Air QD Cuspidor Mounted		4 p		\$ 144.00
	Dento surg 90 FFP unit		4 p		\$ 10,400.00
	Dexis Digital X-ray Sensors		4 p		\$ 36,000.00
	Digital X-ray license/software		4 p		\$ 39,200.00
	Panorex		4 p		\$ 28,300.00

New York State Department of Health
 Certificate of Need Application
 Schedule 11 - Moveable Equipment

	Hepa Filter, CrystalAir, Crymar	4 p	\$ 984.00
	Root ZX Apex Locator, Morita	4 p	\$ 3,364.00
	Central Vacuum System, STS-5, Airtec	1 p	\$ 6,000.00
	Compressor, Twin, Airstar 50, Airtec	1 p	\$ 6,100.00
	Lab Vibrator	4 p	\$ 360.00
	Sultan Pro-Sonic	4 p	\$ 4,000.00
	Red Wing	4 p	\$ 800.00
	Micro Cab	4 p	\$ 1,080.00
	Additional Dental Equipment Sub total	50	\$ 140,044.00
	Standard Exam Room Equipment Sub total	67	\$ 68,488.00
	Standard Dental Exam Room Equipment sub total	125	\$ 26,350.00
	Additional Medical Equipment Sub total	272	\$ 99,732.00
	Additional Dental Equipment Sub total	544	\$ 140,044.00

Total lease and purchase costs: Subproject 2	
Total lease and purchase costs: Subproject 3	
Total lease and purchase costs: Subproject 4	
Total lease and purchase costs: Subproject 5	
Total lease and purchase costs: Subproject 6	
Total lease and purchase costs: Subproject 7	
Total lease and purchase costs: Subproject 8	
Total lease and purchase costs: Whole Project:	\$ 334,614.00

Schedule 13- CON Forms Applicable to all Article 28 Facilities

Contents:

- **Schedule 13 A - Assurances.**
- **Schedule 13 B - Staffing**
- **Schedule 13 C - Annual Operating Costs**
- **Schedule 13 D - Annual Operating Revenue**

Schedule 13 A. Assurances From Article 28 Applicants

Article 28 applicants seeking combined establishment and construction or construction approval only must complete this schedule.

The undersigned, as a duly authorized representative of the applicant, hereby gives the following assurances:

- a) The applicant has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure use and possession for the purpose of the construction and operation of the facility.
- b) The applicant will obtain the approval of the Commissioner of Health of all required submissions, which shall conform to the standards of construction and equipment in Subchapter C of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (Title 10).
- c) The applicant will submit to the Commissioner of Health final working drawings and specifications, which shall conform to the standards of construction and equipment of Subchapter C of Title 10, prior to contracting for construction, unless otherwise provided for in Title 10.
- d) The applicant will cause the project to be completed in accordance with the application and approved plans and specifications.
- e) The applicant will provide and maintain competent and adequate architectural and/or engineering inspection at the construction site to insure that the completed work conforms to the approved plans and specifications.
- f) If the project is an addition to a facility already in existence, upon completion of construction all patients shall be removed from areas of the facility that are not in compliance with pertinent provisions of Title 10, unless a waiver is granted by the Commissioner of Health, under Title 10.
- g) The facility will be operated and maintained in accordance with the standards prescribed by law.
- h) The applicant will comply with the provisions of the Public Health Law and the applicable provisions of Title 10 with respect to the operation of all established, existing medical facilities in which the applicant has a controlling interest.
- i) The applicant understands and recognizes that any approval of this application is not to be construed as an approval of, nor does it provide assurance of, reimbursement for any costs identified in the application. Reimbursement for all cost shall be in accordance with and subject to the provisions of Part 86 of Title 10.

Date

Signature:

Name (Please Type)

Title (Please type)

**New York State Department of Health
Certificate of Need Application**

Schedule 13B

Schedule 13 B. Staffing

Table 13B - 1: See "Schedules Required for Each Type of CON" to determine when this form is required. Use the "Other" categories for providers, such as dentists, that are not mentioned in the staff categories. If a project involves multiple sites please create a staffing table for each site.

Total Project Subproject number

A		B	C	D
		Number of FTEs to the Nearest Tenth		
Staffing Categories		Current Year*	First Year of implementation	Third Year of implementation
1.	Management & Supervision	81	10.1	10.1
2.	Technician & Specialist	74	5.3	5.3
3.	Registered Nurses	11	6.5	6.5
4.	Licensed Practical Nurses	39	10.5	10.5
5.	Aides, Orderlies & Attendants	58	27.4	27.4
6.	Physicians	75	18	18
7.	PGY Physicians	18	0	0
8.	Physicians' Assistants	1	0	0
9.	Nurse Practitioners	7	6	6
10.	Nurse Midwife	2	0	0
11.	Social Workers and Psychologist**	31	14.6	14.6
12.	Physical Therapists and PT Assistants	0	0	0
13.	Occupational Therapists and OT Assistants	0	0	0
14.	Speech Therapists and Speech Assistants	0	0	0
15.	Other Therapists and Assistants	0	0	0
16.	Infection Control, Environment and Food Service	0	6	6
17.	Clerical & Other Administrative	203	32.9	32.9
18.	Other	5	0	0
19.	Other	2	0	0
20.	Other	0	0	0
21.	Total Number of Employees	607	137.3	137.3

*Last complete year prior to submitting application

**Use only for RHCF and D and T Center proposals

Describe how the number and mix of staff were determined:

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Schedule 13B

1.) All diagnostic and treatment centers should complete the following section:

Name of medical director:	Neil S. Calman, M.D.
License number of the Medical Director	127500

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of the medical director's curriculum vitae.	<input type="checkbox"/>	CALMAN CV_4.10	13B-1

Acute care facility with which an affiliation agreement is being negotiated:	St. Luke's Hospital Division of St. Luke's-Roosevelt Hospital Center
In the space below, indicate the status of those negotiations:	

	Not Applicable:	Title of Attachment	Filename of attachment
Attach a copy of a letter of intent or the affiliation agreement, if appropriate.	<input type="checkbox"/>	St. Luke's Hospital Back up Services Agreement	

Distance in miles from the proposed facility to the acute care affiliate.	1.7 miles
Distance in minutes of travel time from the proposed facility to the acute care affiliate.	6 minutes
Name of the acute care facility, nearest the proposed facility:	St. Luke's Hospital
Distance in miles from the proposed facility to the nearest acute care facility:	1.7 miles
Distance in minutes of travel time from the proposed facility to the nearest acute care facility.	6 minutes

BACK-UP SERVICES AGREEMENT

AGREEMENT, made and entered into as of the date of its completed execution, by and between ST. LUKE'S-ROOSEVELT HOSPITAL CENTER, with a facility at 1111 Amsterdam Avenue, New York, NY, 10025 ("SLRHC," "Receiving Facility") and THE INSTITUTE FOR FAMILY HEALTH (the "Institute," "Referring Organization"), with administrative offices at 16 East 16th Street, New York, NY, 10003 .

WHEREAS, SLRHC and the Institute desire, in the interests of quality care, access to treatment, efficiency and economy, to coordinate and cooperate in the use of certain resources; and

WHEREAS, Institute operates the North General Family Health Center at 1879 Madison Avenue, New York, NY;

WHEREAS, SLRHC is willing to accept at its St. Luke's division referrals of patients from North General Family Health Center ("referred patients") for emergency room services, specialty services, and inpatient hospital services;

NOW, THEREFORE, in consideration of the mutual advantages accruing to the parties, it is agreed as follows:

1. Inpatient and Other Hospital Services Where inpatient or other hospital services are determined to be medically appropriate by the treating physician at the Referring Organization and by the responsible accepting physician at the Receiving Facility, the referred patient may be accepted by Receiving Facility for transfer to the Receiving Facility; provided, however, that no patient will be accepted for transfer for such services unless there is inpatient or Emergency Department capacity and the required services are available.
2. Patient Consent: Transfers The Referring Organization shall be solely responsible for obtaining and shall obtain all legally effective consents or authorizations to permit transfer to the Receiving Facility. The Referring Organization shall, in addition, comply with all applicable state and federal law regarding transfer of patients presenting to the Referring Organization's emergency room or in need of emergency care. The Receiving Facility shall be responsible to obtain informed consent for further treatment as necessary under applicable law.
3. Licensure; Accreditation SLRHC has all certifications necessary to provide inpatient hospital services and maintains on a 24 hour basis all services, including, but not limited to, emergency, medical, surgical, dental, x-ray, laboratory, and pharmaceutical, necessary and appropriate for the delivery of such services. SLRHC will promptly notify Institute if it loses such certification or if it is the subject of any adverse action, or contemplated adverse action regarding that designation, and will promptly notify the Referring Organization of any adverse action or contemplated adverse action regarding its JCAHO accreditation.

The Institute has all licenses and certifications necessary to provide medical assessment services to public assistance recipients with complex barriers to employment, including medical, mental health, and substance abuse conditions, to transition from welfare to work. The Institute will promptly notify SLRHC if it loses a license or certification or if it is the subject of any adverse action, or contemplated adverse action regarding such licensure or certification and will promptly notify SLRHC of any adverse action or contemplated adverse action regarding its licensure or certification.

4. Patient Care Information The Referring Organization shall be solely responsible for the prompt transfer of patient care information and other documentation as is relevant to the proper care of the referred patient, including but not limited to medical, social, nursing and other care plans, and such additional patient care information and documentation as is requested by the Receiving Facility physician who will become responsible for the medical care of the referred patient.

5. Confidentiality The Referring Organization and the Receiving Facility both agree to comply with all applicable federal, state and local laws and regulations, as they may be amended from time to time, governing the confidentiality of medical records. The Referring Organization and the Receiving Facility further represent and warrant that their employees, medical staff, and or contractors have been trained in the confidentiality and disclosure requirements of New York State statutes and regulations concerning HIV-related information and agreed to comply with such requirements.

6. Patient Transfer With respect to referrals for inpatient care, the Referring Organization and the referring physician shall be solely responsible for physically transporting the referred patient to the Receiving Facility in a manner that is safe and medically appropriate, as determined by the attending physician at the Referring Organization. The Referring Organization shall select the form of transport and shall assure that such transfer complies with all applicable state and federal law regarding transfer of patients.

7. Patient Discharge Nothing contained herein shall prevent or in any way prohibit the Receiving Facility from discharging a referred patient who has been admitted to the Receiving Facility if the responsible Receiving Facility physician considers it medically appropriate or if the referred patient signs out or is signed out against medical advice by the person or agency legally authorized to act on such referred patient's behalf.

8. Personal Valuables With respect to referral for inpatient care, the Referring Organization shall be responsible for the storage and safe transport of the referred patient's personal property, especially his/her monies and valuables, until the referred patient is accepted for admission by the Receiving Facility for inpatient services and the Receiving Facility obtains control over such personal property and signs a receipt which shall list each item of personal property being forwarded to the Receiving Facility. Once under the control of the Receiving Facility, such referred patient's personal property shall be stored safely in a place known and reasonably accessible to the referred patient or to a person or agency legally authorized to act on his/her behalf.

9. Billing Each party shall bill directly the appropriate payor for medical care services rendered such party. Neither party shall be held financially responsible for the services rendered to a patient by the other party.

10. Insurance: SLRHC

(a) SLRHC shall maintain, pay for, and keep in force as required by the law statutory workers compensation insurance for its employees, and statutory disability benefits covering all persons employed by the Referring Organization in connection with this Agreement.

SLRHC shall maintain, pay for, and keep in force the following insurance: Professional liability, comprehensive general liability, including personal injury and broad form property damage liability in amounts, for each, of not less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate. Certificates of Insurance from SLRHC evidencing such coverage shall be provided to the Receiving Facility upon its request. Coverage afforded under these policies will not be cancelled or materially diminished until at least thirty days' prior written notice has been given to the Institute. .

11. Insurance and Indemnity: The Institute

(a) The Institute shall maintain, pay for, and keep in force as required by the law statutory workers compensation insurance for its employees, and statutory disability benefits covering all persons employed by the Institute in connection with this Agreement.

(b) The Institute shall maintain, pay for, and keep in force the following insurance: Professional liability, comprehensive General liability, including personal injury and broad form property damage liability in amounts, for each, of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate. Certificates of Insurance from the Institute evidencing such coverage shall be filed be provided if requested by SLRHC. Coverage afforded under these policies will not be cancelled or materially diminished until at least thirty days' prior written notice has been given to SLRHC. The Institute represents that it is a Federally Qualified Health Center; accordingly, as an alternative to a professional liability policy, the Institute may demonstrate deeming and coverage under the Federal Tort Claims Act.

(c) The Institute will defend, indemnify, and hold harmless SLRHC, its directors, physicians, employee and agents from any and all suits, damages, claims, costs and expenses (including reasonable attorney fees) arising from its actions.

12. Term of Agreement This Agreement shall become effective beginning on the date of its completed execution. The initial term of this Agreement shall be one year. It shall renew automatically from year to year for additional one year terms, unless terminated as provided herein.

13. Termination Either party may terminate this Agreement upon thirty (30) days written notice to the other party for any reason whatsoever or for no reason at all. Neither party shall incur any liability on account of such termination. This Agreement shall terminate immediately

if either party fails to maintain in good standing its licensure, certification, and accreditation. Such party shall immediately inform the other party in writing of such failure to maintain in good standing its licensure, certification and accreditation.

14. Transfer Pending Termination In the event this Agreement is terminated pursuant to Paragraph 12 hereof, the Referring Organization may transfer a referred patient to the Receiving Facility in accordance with the provisions of this Agreement during the thirty (30) day period prior to the termination date of this Agreement.

15. Compliance with Law. Throughout the term of this Agreement, Referring Organization and Receiving Facility shall comply with the requirements of the New York State Public Health Law. In addition, New York State Health Code Regulations require the following statement in this Agreement:

"Notwithstanding any other provision in this contract, each facility remains responsible for ensuring that any service provided pursuant to this agreement complies with all pertinent provisions of Federal, State and local statutes, rules and regulations."

16. Non-Discrimination The Referring Organization and the Receiving Facility are and shall remain during the term of this Agreement in compliance with the Federal Civil Rights Law and applicable state and local statutes and regulations in that they admit and treat all patients without regard to race, creed, sex, color, source of payment, national origin, age and handicap. The same non-discrimination policy applies to the employment and promotion of personnel.

17. Amendments This Agreement shall not be modified or amended except upon the written agreement executed by the Receiving Facility and the Referring Organization.

18. Advertising Neither party shall use the name of the other party in any promotional or advertising material, or in any way advertise or promote the affiliation between the parties as set forth in this Agreement without receiving the prior written approval of such other party.

19. Independent Relationship This Agreement in no way establishes an agency relationship between the Receiving Facility and the Referring Organization. Each party shall maintain its independence and its separate identity. Each party shall have exclusive control of its management, employees, staff, policies and assets. Neither party assumes any liability for the acts of the other party.

20. Notices All notices, requests and correspondence shall be in writing and shall be addressed to the parties as indicated on the first page of this Agreement, unless such address shall have been changed by written notice to the other party, in which case notices shall be addressed to the changed address. Notices shall be deemed to have been received either when personally delivered or if sent by mail (in which event it shall be sent postage prepaid by registered or certified mail) three days after the postmark date.

21. Assignment Neither party shall assign or transfer any duties or obligations imposed upon it by this Agreement without the prior written consent of the other party.

22. Entire Agreement This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all other agreements and understandings whatsoever between the parties, whether oral, written or otherwise.

23. Governing Law This Agreement shall be deemed to be a contract made under the laws of the State of New York and shall be construed in accordance with and shall be governed by the laws of the State of New York.

Accepted and Agreed:

ST. LUKE'S-ROOSEVELT HOSPITAL CENTER

By: _____

Name: _____

Title: _____

Date: _____

THE INSTITUTE FOR FAMILY HEALTH

By: _____

Name: _____

Title: _____

Date: _____

Table 13B - 2. Ambulatory surgery centers should complete the following Table:

List all practitioners -- including surgeons, Dentists and Podiatrists, who have expressed an interest in practicing at the Center.
 NOTE: Attach copies of letters from each giving the number and type of procedures he or she expects to perform per year.

Practitioner's Name	License No.	Specialty (s)	Board Certified or Eligible	Expected Number of Procedures	List hospitals where Physician has Admitting Privileges:	Title and File Name of attachment
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			
			YES <input type="checkbox"/> NO <input type="checkbox"/>			

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Certificate of Need Application**

Schedule 13D

Schedule 13 C. Annual Operating Costs

See "Schedules Required for Each Type of CON" to determine when this form is required.

Use this schedule to summarize the first full year's incremental cost for the categories, which are affected by this project. The first full year is defined as the first 12 months of full operation after project completion. Project the first and third full year's direct incremental costs in current year dollars. (Show only additional operating costs to be incurred during the first full year after project completion). Enter in the column heading the year and month when this period begins and ends."

- Total Project
- Subproject Number

Table 13C - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Cost Impact	Year 3 Incremental Cost Impact
Start date of year in question:(m/d/yyyy)	1/1/2010	6/1/2010	6/1/2012
1. Salaries and Wages	34,784,444	9,509,000	9,744,750
1a. FTEs	607	137.3	137.3
2. Employee Benefits	6,818,968	2,736,000	2,790,380
3. Professional Fees	307,000	1,191,700	1,264,330
4. Medical & Surgical Supplies	2,404,891	1,918,000	1,771,570
5. Non-med., non-surg. Supplies	889,481	170,000	443,650
6. Utilities	1,009,015	284,000	301,220
7. Purchased Services	3,788,797	509,000	539,720
8. Other Direct Expenses	2,174,595	4,339,000	4,826,520
9. Subtotal (total 1-8)	52,177,191	20,656,700	21,682,140
10. Interest	529,009	0	0
11. Depreciation and Rent	3,390,890	2,003,000	2,113,320
12. Total Incremental Operating Costs	56,097,090	22,659,700	23,795,460

	Title of Attachment	Filename of attachment
1. In an attachment, provide the basis and supporting calculations for depreciation and rent expense	Rent and Depreciation Calculation	13-D-1
2. In an attachment, provide the basis for interest cost. Separately identify, with supporting calculations, interest attributed to mortgages and working capital	N/A	N/A

Any approval of this application is not to be construed as an approval of any of the above indicated current or projected operating costs. Reimbursement of any such costs shall be in accordance with and subject to the provisions of Part 86 of 10 NYCRR. Approval of this application does not assure reimbursement of any of the costs indicated therein by payers under Title XIX of the Federal Social Security Act (Medicaid) or Article 43 of The State Insurance Law or by any other payers.

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Schedule 13D

Schedule 13 D: Annual Operating Revenues

See "Schedules Required for Each Type of CON" to determine when this form is required.

This schedule is to be used for all proposals except (a) establishment applications for RHCs and D&TCs, and (b) RCHF and D&TC applications which will increase total year current costs by more than 10%.

One schedule must be completed for the total project and one for each of the subprojects. Indicate which one is being reported by checking the appropriate box at the top of the schedule.

Use this schedule to summarize the current year's operating revenue, and the first and third year's incremental operating revenue for the categories that are affected by this project.

Table 1. Enter the current year data in column 1. This should represent the total revenue for the last complete year before submitting the application, using audited data.

Indicate in column 2 and column 3 respectively a projection of the first and third year incremental revenues (i.e., additional operating revenues (i.e., additional operating revenues to be received during the first and third years of operation after project completion). Use current year dollars. Show revenue reductions in parentheses.

Tables 2a and 2b. Enter current year data in the appropriate block. This should represent revenue by payer for the last complete year before submitting the application, using audited data.

Indicate in the appropriate blocks incremental revenues (i.e., additional operating revenues by payer to be received during the first and third years of operation after project completion). As an attachment, provide documentation for the rates assumed for each payer. Where the project will result in a rate change, provide supporting calculations. For managed care, include rates and information from which the rates are derived, including payer, enrollees, and utilization assumptions.

The total of Inpatient and Outpatient Services at the bottom of tables' 2a and b should equal the totals given on line 10 of table 1.

Provide as an attachment to this schedule a cash flow analysis for the first year of operations after the changes proposed by the application, which identifies the amount of working capital, if any, needed to implement the project. Please complete Schedule 5, Working Capital Schedule, in conjunction with the cash flow analysis.

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Schedule 13D

Table 13D - 1

	a	b	c
Categories	Current Year	Year 1 Incremental Revenue Impact	Year 3 Incremental Revenue Impact
Start date of year in question:(m/d/yyyy)			
1. Daily Hospital Services			
2. Ambulatory Services			
3. Ancillary Services			
4. Total Gross Patient Care Services Rendered			
5. Deductions from Revenue			
6. Net Patient Care Services Revenue			
7. Other Operating Revenue (Identify sources)			
8. Total Operating Revenue (Total 1-7)			
9. Non-Operating Revenue			
10. Total Project Revenue			

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Schedule 13D

Table 13D – 3

* Various inpatient services may be reimbursed as discharges or days. Applicant should indicate which method applies to this table by choosing the appropriate checkbox.

Patient Days Patient discharges

Inpatient Services Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Patient Days or dis- charges *	Net Revenue*		Patient Days or dis- charges*	Net Revenue*		Patient Days or dis- charges*	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service									
	Managed Care									
Medicare	Fee for Service									
	Managed Care									
Medicaid	Fee for Service									
	Managed Care									
Private Pay										
CASAS										
MH										
Charity Care										
Bad Debt										
All Other										
Total			100%			100%			100%	

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Schedule 13D

Table 13D - 4

Outpatient Services** Source of Revenue		Total Current Year			First Year Incremental			Third Year Incremental		
		Visits	Net Revenue*		Visits	Net Revenue*		Visits	Net Revenue*	
			%	Dollars (\$)		%	Dollars (\$)		%	Dollars (\$)
Commercial	Fee for Service									
	Managed Care									
Medicare	Fee for Service									
	Managed Care									
Medicaid	Fee for Service									
	Managed Care									
Private Pay										
OASAS										
OMH										
Charity Care										
Bad Debt										
All Other										
Total			100%			100%			100%	
Total of Inpatient and Outpatient Services										

Attachment #

13 -D - I

Rent and Depreciation Calculation

The Institute for Family Health is going to lease approximately 27,000 sq feet from North General Hospital. The rent payment (which includes additional rent for utilities) is estimated to be approximately \$813,540. The rent payment for the Ralph Lauren Cancer Center lease is estimated to be \$325,000. Depreciation for equipment was calculated using (36 month) straight line depreciation for new equipment purchased that had a total cost of \$525,000. This results in a depreciation expense of \$175,000 per year. The Ralph Lauren Center equipment will carry a depreciation cost \$689,000 for 2009. The total rent and depreciation expense for 2009 is estimated \$2,003,000.

The rents and depreciation were projected to have annual increases of which results in a rent and depreciation expense of \$2.1 million in Year 3 of the project.

Schedule 17 CON Forms Specific to Diagnostic and Treatment Centers Article 28

Contents:

- o **Schedule 17 A - D&TC Program Information.**
- o **Schedule 17 B - D&TC Community Need.**
- o **Schedule 17 C - Impact of CON Application on D&TC Operating Certificate**
- o **Schedule 17 D - D&TC Allocation of Operating Costs**
- o **Schedule 17 E - D&TC Statement of Revenue**

Schedule 17 A - Diagnostic and Treatment Center Program Information.

See "Schedules Required for Each Type of CON" to determine when this form is required.

Instructions: In the space below, briefly indicate how the facility intends to comply with state and federal regulations. If the application involves conversion of an existing practice, state who owns the practice and how the conversion will be done. If there are other entities utilizing the same space or resources, please state exactly how the space and resources will be allocated. Also, provide a description of the other entities.

The Institute for Family Health is a federally qualified community health center network, founded in 1983, dedicated to developing innovative ways to provide primary health services to medically underserved populations based on the family practice model of care. The Institute holds a NYS Article 28 Diagnostic and Treatment Center license and currently operates 15 full-time health centers and nine part-time centers through its federal Section 330 community health center grant program. Since 2005, the Institute has been fully accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO). In August 2009, the Institute achieved Level 3 certification as a Patient Centered Medical Home from the National Committee for Quality Assurance, the first health center network in New York State to achieve this distinction.

North General Hospital is a not-for-profit corporation located at 1889 Madison Avenue in Harlem, New York. The hospital's service area includes the communities of Central and East Harlem, which have a combined population of 259,205 and include a significant number of individuals and families living at or below the Federal Poverty Level. The Hospital's Diagnostic and Treatment Center, in operation since 2004, offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties. The Center provides oncology services offsite just two blocks away at the Ralph Lauren Center for Cancer Care and Prevention (RLCC). The Center is a vital component of Harlem's safety net provider system. In 2009, the Center provided 95,000 visits in total including primary care, dental, mental health, and specialty services.

Over the past year, North General's leadership has recognized the need to change its organizational structure to address ongoing financial difficulties. In late 2009, North General approached the Institute for assistance in operating its Diagnostic and Treatment Center and specialty care services. Since that time, clinical and administrative leaders from the Institute and North General have met to review and coordinate all issues related to the transfer of this site in order to ensure a smooth transition. Both parties have agreed that the Institute will assume responsibility for primary medical care, mental health, dental, 12 hour/7 days a week walk-in-services, school-based health services, and a number of specialty services, including off-site oncology services. In addition, the Institute will implement an electronic health record (EHR) system. A transition date has been set for June 1, 2010. In addition to this Certificate of Need Application, the Institute is also applying to the Bureau of Primary Health Care to add this site into its federal scope of service.

Schedule 17 B - Community Need

See "Schedules Required for Each Type of CON" to determine when this form is required.

Public Need Summary:

Briefly summarize on this schedule, why the project is needed. Use additional paper, as necessary. If the following items have been addressed in the project narrative, please cite the relevant section and pages.

1. Identify the relevant service area (e.g., Minor Civil Division(s), Census Tract(s), street boundaries, Zip Code(s), Health Professional Shortage Area (HPSA) etc.)

North General Hospital is located at 1889 Madison Avenue in Harlem in New York County. According to 2000 US Census Bureau data, New York County is the most densely populated county in the United States. The Harlem community stretches from the East River west to the Hudson River as far north as 155th Street where it meets with Washington Heights. The southern border is irregular and stretches as far south as 96th street in the east, then follows the perimeter of Central and Morningside Parks and the Upper West Side moving west. The vast majority of North General Hospital patients reside in Central Harlem and East Harlem, which are divided by 5th Avenue and cover a combined area of approximately 3.62 square miles. Central Harlem, which comprises Manhattan Community District 10, consists of zip code areas 10026, 10027, 10030, 10037, and 10039. It comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, which comprises Community District 11, consists of zip code areas 10029 and 10035. It comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and all of which are Health Professional Shortage Areas.

2. Provide a quantitative and qualitative description of the population to be served. (Qualitative data may include median income, ethnicity, payor mix, etc.)

According to the 2000 US Census, the population of the communities of Central Harlem (151,113) and East Harlem (108,092) totals roughly 259,205, rendering a population density of 71,604 per square mile. The service area's population is made up primarily of African American and Hispanic residents. Approximately 67% of the population of Central Harlem and 39% of East Harlem are African American; 20% of Central Harlem and 55% of East Harlem are Hispanic; and 8% of Central Harlem and 26% of East Harlem are White. An estimated 19% of Central Harlem residents and 21% of East Harlem residents were born outside of the US, compared to 11% of the overall US population.

Harlem is ranked as one of the poorest neighborhoods in all of New York City. The median household incomes of Central Harlem (\$21,508) and East Harlem (\$18,564) are significantly lower compared to both New York City (\$38,293) and the US (\$41,994). In addition, the percentage of persons living in poverty in Central Harlem (36%) and East Harlem (21%) is significantly higher than in the rest of New York City (21%) and the US (12%). One third of the population live at or below 100 percent of the federal poverty level (FPL) and roughly two thirds are below 200 percent, or approximately 170,000 individuals.

The percentage of Harlem residents without health insurance compares negatively to both New York City and the US: 24.8% for Central Harlem and 19.5% for East Harlem compared to 17.4% for New York City and 15% for US residents. In addition to these low rates of coverage, more than one quarter of residents in the community report not having a doctor and roughly 13% reported being in need of care but not receiving it. As of December 2008, approximately 24% of Central Harlem residents and 44% of East Harlem residents received Medicaid.

3. Document the current and projected demand for the proposed services. If the proposed services are covered by a DOH need methodology, demonstrate how the proposed service is consistent with it.

North General Hospital is the only private hospital located in Harlem. The Hospital's Diagnostic and Treatment Center, which the Institute is seeking to acquire, offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties. The Center provides cancer screening, diagnosis and treatment services onsite at the RLCC. Center staff also provide primary care services to children at a school-based program located at PS 57 in East Harlem. The Center and its programs are a vital component of Harlem's safety net provider system. In 2009, Center staff provided approximately 95,000 visits in total including primary care, dental, mental health, and specialty services. Center records indicate that the vast majority (72.2%) of patients served by the organization come from the

New York State Department of Health Certificate of Need Application

Schedule 17B

Central and East Harlem communities, which have, as indicated above, a significant number of individuals and families living at or below the Federal Poverty Level. During 2009, 32% of primary care visits (including the school-based visits) were covered by Medicaid, 37% by Medicaid HMO, 12% by Medicare, 7% by Medicare HMO, 9% commercial insurance, 2% self-pay.

In the first year, it is projected that these trends will continue and that the Center will care for 24,000 patients who will make an estimated 100,000 visits. The health center will have a sliding fee scale for all uninsured patients, and services will be provided regardless of patients' ability to pay.

4. (a) Describe how this project responds to and reflects the needs of the residents in the community you propose to serve.

Low-income and minority residents in Harlem have a critical need for a medical home. Residents in the service area generally self-report poorer health status and more frequent mental distress when compared to NYC as a whole. Residents are also more likely to go without needed care and/or prescription medicines. According to Community Health Profiles published by the New York City Department of Health and Mental Hygiene, 24% of Central Harlem residents and 29% of East Harlem residents do not have a regular doctor or other health care provider. Among 42 NYC neighborhoods in 2004, Central Harlem ranked 35th and East Harlem 42nd in terms of the avoidable hospitalization rate. In addition, according to the United States Department of Health and Human Services Office of Minority Health, African American men are 1.3 times as likely to have new cases of lung and prostate cancer compared to non-Hispanic white men and African American women are 10% less likely to have been diagnosed with breast cancer but 34% more likely to die from breast cancer.

This project, like all of the Institute's family practice centers, will offer comprehensive primary care on-site, including family planning, gynecological care, HIV testing and treatment, immunizations, TB therapy, hearing and vision screening, urgent care, social services, and nutrition services. Dental care, mental health services, obstetrical care, specialized care for patients affected by HIV, and an array of specialty services will also be available on-site. As indicated above, cancer screening, prevention and treatment services will be provided offsite at the RLCC, and primary care services will be provided to elementary school children at PS 57. The Institute accepts all patients regardless of income, age, sex, or race. Services will be available to all patients regardless of ability to pay through the use of a sliding fee scale that is based on income and family size. Health education and disease prevention will be a regular part of every patient visit to a family physician or family nurse practitioner. Patients will also have access to free or low-cost medications through the Institute's Patient Assistance Program (PAP) and 340B pharmacy program. Access to these services is facilitated by social workers and/or case managers.

- (b) Describe how this project is consistent with your facility's Community Service Implementation Plan (voluntary not-for-profit hospitals) or strategic plan (other providers).

The Institute's strategic planning process addresses the importance of increasing access to services in underserved communities, insuring that all patients, regardless of source of payment, have access to a full range of services. This project is consistent with that goal. Specifically, the site will be incorporated into the Institute's federal scope of service, designating it as a federally qualified health center.

5. Describe where and how the population to be served currently receives the proposed services.

North General Hospital's Diagnostic and Treatment Center offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties, and cancer care. In 2009, the Center provided 89,619 visits in total including primary care, dental, mental health, and specialty services. As previously noted, the vast majority of patients served come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas. In addition to North General, three federally qualified health centers provide services in Central and East Harlem: Helen B. Atkinson Health Center, Boriken Neighborhood Health Center, and Settlement Health Center. The community is also served by Mount Sinai, Harlem Hospital Center, and Metropolitan Hospital Center. Despite these resources, more than one quarter of residents in the community – or approximately 65,000 people – report not having a doctor and roughly 13% – or about 38,000 people – reported being in need of care but not receiving it. Further, approximately 10% of residents – nearly 26,000 people – went without health insurance at some time during the past year.

Quality and Accreditation:

1. Please cite relevant accreditations, certifications or awards attained by the applicant which build confidence in services of high quality. Examples include certification as a Federally Qualified Neighborhood Health Center.

The Institute for Family Health is a federally qualified community health center network, founded in 1983, dedicated to developing innovative ways to provide primary health services to medically underserved populations based on the family practice model of care. The Institute has a strong track record of success in operating high-quality clinical programs, most of which are developed and operated collaboratively with community-based organizations, hospitals, and medical schools. Since 2005, the Institute has been fully accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO). In August 2009, the Institute achieved Level 3 certification as a Patient Centered Medical Home from the National Committee for Quality Assurance, the first health center network in New York State to achieve this distinction. In 2007, the Institute was named a National Center of Excellence in the Elimination of Disparities and a National Center of Excellence in Public Health Informatics by the Centers for Disease Control.

2. Describe relevant programs or resources the applicant will bring to the new facility. Include existing programs that have proven track records at the applicant's other sites, if applicable, as well as programs the applicant plans for the future. Such programs include:
 - a. Programs specially tailored to the health needs of the population of the service area.
 - b. Grant funded programs.
 - c. Scholarships or fellowships.

The Institute currently operates 15 full-time health centers and nine part-time centers through its federal Section 330 community health center grant program. The Institute's network cares for over 70,000 patients and provides over 240,000 visits per year. The majority of patients served are minority, low-income, publicly insured, or uninsured. Of the full-time centers, four are located in Manhattan, including a school-based health center, and five are located in the Bronx. The remaining six full-time centers were acquired in January 2007 and are located in the Mid-Hudson Valley, about 90 miles north of New York City. One of the part-time centers that the Institute operates is also located in this region. Eight part-time centers in Manhattan are operated in conjunction with Care for the Homeless of New York. These sites provide primary care, health education, and outreach at community sites which serve homeless individuals and families.

In addition to its health centers, the Institute operates numerous programs that support the goals of eliminating health disparities and providing access to quality health care to all, regardless of ability to pay. These include Bronx Health REACH, funded by the Centers for Disease Control to eliminate racial disparities in health outcomes in diabetes; the New York Metropolitan Area Health Education Center (AHEC), which focuses on increasing the diversity of the healthcare workforce and recruiting providers to underserved communities; three Ryan White programs that provide comprehensive medical, mental health and other services to people affected by HIV/AIDS; and two free clinics operated in collaboration with medical students from the Albert Einstein College of Medicine and the New York University School of Medicine. The Institute also operates two residency training programs in family medicine designed to train providers to serve the underserved: the Manhattan program is affiliated with the Beth Israel Medical Center and has an urban focus, and the Kingston program is affiliated with the Kingston Hospital and emphasizes rural practice.

3. Describe the applicant's experience or track record serving similar populations:

The Institute has been providing health care services and operating community health promotion programs to underserved urban communities in New York City since 1983. The population of the Institute's service areas in the Bronx and Manhattan is predominantly black and Hispanic, including African Americans, Caribbean-Americans, and new immigrants from Africa, and Central and South America. Similar to the service area population in Harlem, these minority groups face significant health problems, including high rates of HIV/AIDS, asthma, diabetes, obesity, and depression, as well as numerous socioeconomic hardships, including poverty, low literacy and education levels, high unemployment, and lack of health insurance. Many do not speak English, or have limited English proficiency. The Institute's health care delivery system addresses many of these issues by providing a full range of primary medical care, specialty care, dental services, mental health, and other services at each of its practices, either directly or by referral.

In the Institute's service areas for both the Bronx and Manhattan, our community health centers help to fill a tremendous need for primary care services. All of the centers are located in or next to Health Professional Shortage Areas (HPSAs) and/or Medically Underserved Areas (MUAs). In New York City, the Bronx target service area includes six primary medical care HPSAs, two dental HPSAs, one mental health HPSA, and four MUAs; the Manhattan target service area includes one primary care HPSA, one dental HPSA, two mental health HPSAs, and five MUAs.

**Primary and Specialty Care Services Review Criteria:
Expansion of Services**

When a CON application proposes conversion of a group or solo medical practice to Article 28 status, the applicant must provide a written analysis of the effect of the proposal on the following factors:

1. The full time equivalent (FTE) number of primary care physicians and specialists, by specialty, engaged in the practice after the conversion compared with the number before conversion.

2. The (FTE) number of non-physician providers of primary care and specialty care, by specialty, such as Physician Assistants, Certified Nurse Practitioners, Physical Therapists, and Dental Assistants after the conversion compared with the number before conversion.

3. The number of primary care and specialty visits, by specialty, after the conversion compared with the number before conversion.

4. The array of services to underserved clients after the conversion compared with the number before conversion.

Target Population and Service Area:

All applications involving primary care services must provide a written analysis that clearly demonstrates that the proposal meets at least one of the following criteria. For criteria that do not apply, enter "not applicable":

1. The proposed clinic is in an underserved area as indicated by location in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA).

The vast majority of patients served by North General Hospital come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas.

2. The population to be served exhibits poor health status, as measured by factors such as high levels of inpatient discharges for ambulatory care sensitive conditions (ACSC), incidences of diseases and conditions in excess of standards in Healthy People 2010 or other pertinent indicators.

According to the NYC Department of Vital Statistics, the Harlem community has high mortality rates in many disease categories, with the highest mortality rates in NYC for 15 causes of death. Among 42 NYC neighborhoods in 2003-4, Central Harlem and East Harlem rank among the worst (39th and 41st, respectively) in terms of the average annual death rate for people younger than 75 years. The primary cause of premature death is cancer in Central Harlem and heart disease in East Harlem. It is well documented that there are a number of chronic diseases and conditions that affect the African American and Latino populations disproportionately. In Central and East Harlem, 12% and 13% of adults have

diabetes, respectively, compared to 9% in NYC overall. In addition, approximately one third of all adults in Central and East Harlem are obese (far above the Healthy People 2010 goal of 15%).

Central and East Harlem residents are also more likely (11% and 22%) to go to the emergency department when they are sick or need health advice than those in NYC overall (9%). The NYC Department of Health and Mental Hygiene reports that in 2003-4, residents of Central and East Harlem had an average annual hospitalization rate that was 15% and 45% higher, respectively, than the rate in NYC overall (2,122/100,000 in Central Harlem and 2,706/100,000 in East Harlem vs. 1,856/100,000 in NYC).

The rate of HIV diagnoses and the rate of people living with HIV/AIDS in Central and East Harlem are more than twice the rates in NYC overall. The average annual HIV-related death rate in Central Harlem (47/100,000) and East Harlem (68/100,000) also is considerably higher than in NYC (18/100,000).

The infant mortality rate (per 1,000 live births) is 6 in Central Harlem and 8 in East Harlem, both above the Healthy People 2010 goal of 4.5. Similarly, the percentage of newborns under 2,500 grams is 11% in Central Harlem and 9% in East Harlem, both above the Healthy People 2010 goal of 5%. Drug-related deaths per 100,000 in Central and East Harlem also exceed the Healthy People 2010 goal (25 and 25 vs. fewer than 8).

3. The primary care services of the proposed clinic will be targeted to a group or population with special needs or conditions that make it difficult for them to obtain adequate primary care in clinics or physician practices serving the general population. Examples of such needs and conditions are:
- Developmental disabilities.
 - HIV.
 - Alcohol Substance Abuse.
 - Health needs relating to aging.
 - Mental Health needs.
 - Homelessness
 - Linguistic or cultural barriers in obtaining access to primary care.

The services and activities that the Institute proposes will specifically address the well-documented health care needs and disparities of local residents and are designed in such a way as to remove traditional barriers to care such as language, culture, transportation, lack of health insurance, and income. The project will provide a medical home for the underserved residents with both acute and chronic health care needs, as well as access to health promotion/disease prevention services.

As previously mentioned, all of the health centers operated by the Institute provide services based on the family practice model of care. This model of primary care provides comprehensive health care for individuals and families over their entire lifespan. The majority of Institute providers are family physicians or family nurse practitioners. Providers work in teams with social workers and mental health practitioners to address patients' needs in a comprehensive manner. Mental health services, including psychiatric evaluations and mental health counseling will be available on-site. Clinical social workers provide short-term counseling and psychiatrists work closely with medical providers and social workers to care for patients with more serious mental health issues. The psychiatrists provide psychiatric evaluations, treatment plans, follow-up consultations, prescriptions and monitoring of medications.

The Institute is aware of the important roles that culture, language, and ethnicity play in the provision of quality health care, and makes every effort to recruit and hire medical and mental health professionals who reflect the communities we are serving. Health education programs are offered in English and Spanish, and written patient materials are available in Spanish and are appropriate for all literacy levels. The Institute also subscribes to language line services that make translation immediately available in almost any language via phone. All Institute employees are required to attend a two-day diversity training. In 2006, the Institute received grant funding to implement a cultural competency training program for its providers. Additionally, our award-winning electronic health record (EHR) system facilitates access to literacy- and language-appropriate health information.

In addition, the Institute has a long and successful history of integrating HIV services into our community health centers. The Institute has received Ryan White funding since 1992 and currently operates three Ryan White (Part A and B) programs that provide comprehensive medical, case management, mental health, treatment adherence (including directly observed therapy) and other services to people affected by HIV/AIDS. All Institute Ryan White (Part A and B) programs monitor patient adherence to primary care appointments and work to relieve barriers so that patients receive continuous care.

Lastly, the Institute currently operates eight part-time centers in Manhattan in conjunction with Care for the Homeless of New York. These sites provide primary care, health education, and outreach at community sites that serve homeless individuals and families. Further, the Institute has experience at all of its sites of providing care for individuals who may be defined as temporarily homeless due to separation, loss of job, or some other economic or personal situation. The Institute will apply this expertise to its services at the North General site.

Capacity of Existing Primary Care Providers

The project narrative should describe existing primary care services in the proposed service area. The narrative should include the number and location of existing D&TCs, extension clinics and part-time clinics and a summary of primary care services available through private practices. The narrative should indicate whether travel time and transportation are factors in access to primary care. Examples of travel related issues include topography, seasonal weather conditions, and availability of public transportation. Applicants are not expected to describe the volume of services delivered by existing

providers, since they will rarely have access to such data, but the project narrative should indicate that the applicant is reasonably familiar with the overall availability of primary care in the targeted area.

In instances where the target area is likely to already have significant primary care resources, the CON proposal will be reviewed for the following need related factors:

- The ratio of primary care physicians to population in the proposed service area. HPSA uses a ratio of 1.0 FTE physicians to 3000 persons; Medicaid Managed Care uses a ratio of 1 to 1500.
- The number of primary care physicians in the proposed service area who are "active" in serving the Medicaid population. This is often measured as physicians who are reimbursed \$5000 or more per year by Medicaid.
- The annual number of primary care visits per person by Medicaid eligible persons in the proposed service area. An average lower than 2.0 visits per person is often considered a problem.
- The percentage of the Medicaid population that is enrolled in Managed care will be taken into account where appropriate.
- The current volume of primary care visits to existing D&TC and Extension clinics.

Not all of the above criteria need be evaluated for all applications. The number will vary depending on the type and location of services proposed and on how thoroughly the application addresses need in the project narrative and the related schedules.

As previously noted, North General Hospital's Diagnostic and Treatment Center offers primary care services for adults and children, as well as a wide array of medical, surgical, and dental subspecialties. In 2009, the Center provided 89,619 visits in total including primary care, dental, mental health, and specialty services. Data indicates a high level of utilization for care related to chronic conditions and diseases such as diabetes, HIV/AIDS, hypertension, cancer and asthma. Dental visits reflect a need for general dental care and examinations related to decay/dental caries. Mental health visits reflect a high level of utilization related to care for depression, a condition that has been demonstrated through research to have a high degree of co-morbidity in relation to other severe chronic health conditions and diseases such as diabetes, HIV/AIDS, and cancer.

In addition to North General, three federally qualified health centers provide services in Central and East Harlem: Helen B. Atkinson Health Center (81 W. 115th Street), Boriken Neighborhood Health Center (2253 Third Avenue), and Settlement Health Center (212 East 106th Street). The community is also served by Mount Sinai (1189 5th Avenue; 1171 beds and three D&TCs), Harlem Hospital Center (506 Lenox Avenue; 286 beds), and Metropolitan Hospital Center (1901 First Avenue; 363 beds). Other providers include Comprehensive Care Management D&TC (216 East 99th Street) and Morrisania D&TC (158 East 115th Street). In spite of these resources, Central Harlem and East Harlem remain Medically Underserved Areas and Health Professional Shortage Areas.

Need Review for Specialty Clinics:

Applications not involving primary care services must also provide a written analysis that clearly demonstrates that the need exists for the proposed services

4. Is the proposed clinic in an underserved area as indicated by location in a Health Professional Shortage Area (HPSA) or Medically Underserved Area (MUA)?

As indicated above, the vast majority of patients served by North General Hospital come from the neighborhoods of Central Harlem and East Harlem. Central Harlem comprises 30 census tracts, all of which are Medically Underserved Areas (#02390) and Health Professional Shortage Areas. East Harlem, comprises 25 census tracts, 24 of which are Medically Underserved Areas (#02388) and 25 of which are Health Professional Shortage Areas.

5. Describe in very specific terms the patients who require the specialty services, including the number of patients and their specific health problems, and how the proposed facility will meet their needs better than existing providers.

The specialty services provided at the North General Center will include the following: orthopedics, rehabilitation medicine, gastroenterology, cardiology, hepatology, neurology, urology, dermatology, ENT, kidney/hypertension,

ophthalmology, oncology, hematology, and addiction treatment services. Based on utilization in previous years and anticipated trends, the Institute expects to provide roughly 35,000 specialty visits during its first year operating the North General Center. At least one third of these visits will be for cancer care. The majority of patients served are African American or Latino and suffer disproportionately from chronic conditions and diseases that require treatments and services available only through specialty providers. In addition to high rates of cancer, the Center cares for a large number of patients with diabetes and heart disease and patients who have suffered one or more strokes.

6. In the case of Dental clinics, is the application supported by the local Health Department? Is the proposal supported by the Department of Health's Bureau of Dental Services? Is the applicant participating in current dental health initiatives? Has the applicant consulted with resources such as the New York State Oral Health Technical Assistance Center?

The North General Center provides approximately 4,500 dental visits to community residents annually, most of who are uninsured or receive Medicaid. The ongoing need for oral health services for this high-need and underserved population cannot be overstated. Dental visits reflect a need for general dental care and examinations related to decay and dental caries for children and adults, and for patients with diabetes, pregnant women, and the elderly in particular.

The Institute currently provides dental health services at three of its sites: one in the Bronx, and two in Ulster County. In addition, the organization has been awarded a grant for the past few years from the New York State Department of Health's Bureau of Dental Services to provide dental care and education to youth in Ulster County. We will continue to collaborate with the DOH to provide high quality dental services to the residents of Harlem.

Impact of Proposed CON on Diagnostic & Treatment Center Operating Certificate

TABLE 17C-1 AUTHORIZED SERVICES

Instructions:

For applications requesting changes to more than one location, complete a separate Table 17-C-1 for each location
For Chronic Dialysis Services only, enter only location below and proceed to page 2
Column c: Mark "x" in the box only if the service currently appears on the operating certificate (OpCert) not including requested changes
Column d: Mark "x" in the box this CON application seeks to add. Column e: Mark "x" in the box this CON application seeks to decertify.
Column f: Mark "x" in the box corresponding to all the services that will ultimately appear on the OpCert.

LOCATION: (Enter street address of facility)	<input type="checkbox"/> MOBILE CLINIC DESIGNATION (217) * Check box only if extension clinic is mobile (A mobile clinic must be an extension clinic with a fixed main site)
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a	b	c	d	e	f
		Existing	Add	Remove	Proposed
ABORTION	201	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ADULT DAY HEALTH	58	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ADULT DAY HEALTH - AIDS	172	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AMBULATORY SURGERY**					
MULTI-SPECIALTY**	204	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SINGLE-SPECIALTY** (UNDESIGNATED SPECIALTY)	205	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GASTROENTEROLOGY**	202	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OPHTHALMOLOGY**	195	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ORTHOPEDICS**	203	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ODIOLOGY O/P(See Section 700.2)	159	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BIRTHING SERVICE O/P	180	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CERTIFIED MENTAL HEALTH SERVICES O/P***	53	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CHEMICAL DEPENDENCE-REHABILITATION O/P	150	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CLINIC OMRDD ARTICLE 16 SERVICES	218	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CLINIC PART TIME SERVICES****	18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CLINICAL LABORATORY SERVICES O/P	018	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CT SCANNER	400	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DENTAL O/P	145	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FAMILY PLANNING O/P	148	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HEALTH FAIRS O/P	197	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HYPERBARIC CHAMBER	401	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LINEAR ACCELERATOR	402	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LITHOTRIPSY O/P	223	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAGNETIC RESONANCE IMAGING (MRI)	403	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MEDICAL SOCIAL SERVICES O/P	50	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
METHADONE MAINTENANCE O/P	149	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MULTIPHASIC SCREENING FACILITY	305	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MULTIPHASIC SCREENING O/P	188	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCLEAR MEDICINE -- DIAGNOSTIC O/P	224	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCLEAR MEDICINE -- THERAPEUTIC O/P	225	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- * MOBILE CLINIC: For each location a clinic vehicle will parks to provide services, a separate "Mobil Clinic Site Approval Request" must be attached. A blank form is included below.
- ** AMBULATORY SURGERY requires additional approval by Medicare
- *** MENTAL HEALTH requires additional approval by Office of Mental Health
- **** PART-TIME CLINICS: For each site, enclose a completed copy of form DOH-4-197 (9/00), which is available from:
Project Management Group, Division of Health Facility Planning, Office of Health Systems Management,
New York State Department of Health, 433 River Street, 6th floor, Troy, NY 12180

New York State Department of Health
Certificate of Need Application

Schedule 17C

TABLE 17C-1 AUTHORIZED SERVICES (cont.)

a	b	c	d	e	f
		Existing	Add	Remove	Proposed
NUTRITIONAL O/P	185	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OPHTHAMOLOGY O/P	227	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPTOMETRY O/P	228	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OUTPATIENT SURGERY	68	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PEDIATRICS O/P	152	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PET SCANNER	404	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHARMACEUTICAL SERVICES	073	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHYSICAL MEDICINE AND REHABILITATION O/P	160	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PODIATRY O/P	177	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRENATAL O/P	081	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRIMARY MEDICAL CARE O/P	071	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PSYCHOLOGY O/P	085	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
RADIOLOGY - DIAGNOSTIC	184	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
RADIOLOGY - THERAPEUTIC	230	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RENAL DIALYSIS - HOME TRAINING O/P	37	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - OCCUPATIONAL O/P	146	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - PHYSICAL O/P	147	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
THERAPY - RESPIRATORY O/P	231	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - SPEECH LANGUAGE PATHOLOGY	155	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
THERAPY - VOCATIONAL REHABILITATION	107	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRANSFUSION SERVICES - FULL	102	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TRANSFUSION SERVICES - LIMITED	189	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WELL-CHILD	186	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

END STAGE RENAL DISEASE (ESRD)

TABLE 17C-1(a) CAPACITY	Existing	Add	Remove	Proposed
CHRONIC DIALYSIS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If application involves dialysis service with existing capacity, complete the following table:

TABLE 17C-1(b) PROCEDURES	Last 12 mos	2 years prior	3 years prior
CHRONIC DIALYSIS			

All Chronic Dialysis applicants must provide information requested on the following page in compliance with 10 NYCRR 670.6.

END STAGE RENAL DISEASE (cont.)

1. Provide a five-year analysis of projected costs and revenues that demonstrates that the proposed dialysis services will be utilized sufficiently to be financially feasible.

[Empty text box]

2. Provide evidence that the proposed dialysis services will enhance access to dialysis by patients, including members of medically underserved groups which have traditionally experienced difficulties obtaining access to health care, such as; racial and ethnic minorities, women, disabled persons , and residents of remote rural areas.

[Empty text box]

3. Provide evidence that the hours of operation and admission policy of the facility will promote the availability of dialysis at times preferred by the patients, particularly to enable patients to continue employment.

[Empty text box]

4. Provide evidence that the facility is willing to and capable of safely serving patients.

[Empty text box]

5. Provide evidence that the proposed facility will not jeopardize the quality of care or the financial viability of existing dialysis facilities. This evidence should be derived from analysis of factors including, but not necessarily limited to current and projected referral and use patterns of both the proposed facility and existing facilities. A finding that the proposed facility will jeopardize the financial viability of one or more existing facilities will not of itself require a recommendation to of disapproval.

[Empty text box]

Table 17C-2 - Projected Utilization of Services:

The number of projected "visits" should be listed in this table for each existing or proposed certified service. Visits should be estimated for the current, first and third year of the project. This table should contain visit estimates for services at this site alone, not for the applicant's other sites.

(Service classification and description are from the listings above)		Current Year	1st Full Year of project	3rd Full Year of project
Service Classification Code	Description	Visits	Visits	Visits
419	Primary Care	20,840	20,840	20,840
416	Pediatrics	8,618	8,618	8,618
417	Podiatry	4,354	4,354	4,354
478	Gynecology/ Prenatal	4,205	4,205	4,205
493	ATC	5,710	5,710	5,710
407	Dental	4,533	4,533	4,533
420	Mental Health Clinic	9,467	15,000	15,000
	HIV Clinic	6,822	6,822	6,822
	School Based Hlth Ctr	1,157	1,157	1,157
	Orthopedics	2,570	2,570	2,570
	Rehab Medicine	1,544	1,544	1,544
	Gastroenterology	1,347	1,347	1,347
	Hepatology	864	864	864
	Cardiology	1,279	1,279	1,279
	Neurology	1,435	1,435	1,435
	Urology	1,313	1,313	1,313
	Dermatology	1,037	1,037	1,037
	ENT	1,028	1,028	1,028
	Kidney / Hypertension	865	865	865
	Ophthalmology	678	678	678
	Hematology	1,259	1,259	1,259
	Cancer Care	13,464	13,464	13,464
	Infusion	5,113	5,113	5,113
	Procedure	1,342	1,342	1,342
Total Visits:		100,844	106,377	106,377

D&TC Allocation of Operating Costs

See "Schedules Required for Each Type of CON" to determine when this form is required.

This schedule breaks out operating costs across various categories. A two page table must be completed for the current, first and third year of operation.

Table 17D-1 D&TC Allocation of Operating Costs Current Year: from 1/1/2010 to 12/31/2010 (m/d/yyyy)

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
328	TOTAL ADJUSTED COSTS									
I.	Core Cost Centers									
329a	Administration	\$7,560,852	\$1,482,191	\$823,544	\$815,423	\$1,040,987		\$11,722,997	\$817,342	\$12,540,340
330b	Facility	\$686,678	\$134,613	\$74,794	\$74,057	\$2,715,890		\$3,686,032	\$0	\$0
331b	Patient Transportation									
332	Subtotal	\$8,247,530	\$1,616,804	\$898,338	\$889,480	\$3,756,877		\$15,409,029	\$817,342	\$12,540,340
II.	Patient Care Cost Centers									
a.	Multi-service, Child Health									
333	1. Medical	\$19,904,827	\$3,902,043	\$2,168,077	\$1,803,863	\$2,740,519		\$30,519,329	\$2,151,749	\$32,671,078
334	2. Dental	\$916,412	\$179,649	\$99,818	\$83,049	\$126,173		\$1,405,101	\$98,066	\$1,504,166
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$3,488,285	\$683,826	\$379,952	\$316,124	\$480,271		\$5,348,458	\$377,090	\$5,725,548
339	7. Rehab. Therapies									
340	8. Other Health	\$2,227,390	\$436,646	\$242,612	\$201,856	\$306,670		\$3,415,174	\$240,785	\$3,655,959
341	SUBTOTAL a.	\$26,536,914	\$5,202,164	\$2,890,459	\$2,404,892	\$3,653,633		\$40,688,062	\$2,868,690	\$43,556,751
b.	Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b.									
c.	Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c.									
d.	Cerebral Palsy & Rehab.									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

Table 17D-1 D&TC Allocation of Operating Costs

Current Year Continued:

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & g)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
383	3.									
384	SUBTOTAL j									
389	SUBTOTAL k									

Table 17D-1 D&TC Allocation of Operating Costs

First Year of project: from 1/1/2011 to 12/31/2011 (m/d/yyyy)

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
328	TOTAL ADJUSTED COSTS									
I.	Core Cost Centers									
329a.	Administration	\$625,107	\$156,781	\$0	\$0	\$0	\$0	\$781,888	\$0	\$0
330b.	Facility	\$192,760	\$57,543	\$0	\$0	\$929	\$0	\$251,232	\$0	\$0
331c.	Patient Transportation									
332	Subtotal	\$817,867	\$214,324	\$0	\$0	\$929	\$0	\$1,033,119	\$0	\$0
II.	Patient Care Cost Centers									
a.	Multi-service, Child Health									
333	1. Medical	\$3,468,345	\$1,147,564	\$0	\$467	\$3,148,980	\$0	\$7,765,355	\$342,183	\$8,107,538
334	2. Dental	\$416,187	\$137,703	\$0	\$47	\$316,462	\$0	\$870,398	\$34,388	\$904,786
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$811,663	\$268,553	\$0	\$109	\$733,035	\$0	\$1,813,360	\$79,655	\$1,893,015
339	7. Rehab. Therapies	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
340	8. Other Health	\$3,995,776	\$968,225	\$509,000	\$1,237,229	\$4,466,986	\$0	\$11,177,216	\$576,893	\$11,754,109
341	SUBTOTAL a	\$9,509,838	\$2,736,369	\$509,000	\$1,237,851	\$8,666,391	\$0	\$22,659,449	\$1,033,119	\$22,659,449
b.	Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b									
c.	Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c									
d.	Cerebral Palsy & Rehab.									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

First Year Continued

Table 17D-1 D&TC Allocation of Operating Costs

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & g)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
384	3.									
389	SUBTOTAL j									

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
328	TOTAL ADJUSTED COSTS									
	I. Core Cost Centers									
329a	Administration	\$663,176	\$166,329	\$0	\$0	\$0	\$0	\$829,505	\$0	\$0
330b	Facility	\$204,499	\$61,047	\$0	\$0	\$929,000	\$0	\$1,194,546	\$0	\$0
331c	Patient Transportation									
332	Subtotal	\$867,675	\$227,376	\$0	\$0	\$929,000	\$0	\$2,024,051	\$0	\$0
	II. Patient Care Cost Centers									
	a. Multi-service, Child Health									
333	1. Medical	\$3,436,567	\$1,217,450	\$0	\$495	\$3,340,753	\$0	\$7,995,265	\$363,022	\$8,358,287
334	2. Dental	\$441,533	\$146,089	\$0	\$50	\$335,734	\$0	\$923,405	\$36,482	\$959,888
335	3. Laboratory									
336	4. X-Ray									
337	5. Pharmacy									
338	6. Mental Health	\$861,093	\$284,908	\$0	\$115	\$777,677	\$0	\$1,923,794	\$84,506	\$2,008,300
339	7. Rehab. Therapies	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
340	8. Other Health	\$4,239,119	\$1,027,190	\$539,998	\$1,312,576	\$4,739,025	\$0	\$11,857,908	\$612,026	\$12,469,934
341	SUBTOTAL a	\$10,713,662	\$3,130,389	\$539,998	\$1,313,236	\$11,051,189	\$0	\$26,748,475	\$1,096,036	\$23,796,409
	b. Family Planning									
342	1. Reproductive Health Care									
343	2. Laboratory									
344	3. Pregnancy Counseling									
345	4. Community Service									
346	SUBTOTAL b									
	c. Abortion									
347	1. Medical									
348	2. Laboratory									
349	3. Other Surgical & Related Svcs									
350	4. Intake & Screening									
351	SUBTOTAL c									
	d. Cerebral Palsy & Rehab									
352	1. Medical									
353	2. Dental									
354	3. Speech and Hearing									

Third Year Continued:

Table 17D-1 D&TC Allocation of Operating Costs

a	b	c	d	e	f	g	h	i	j	k
		Salary & Wages	Employee Benefits	Purchased Contract & Services	Supplies	General Costs	Donations	Total Before Distribution	Distribution of Facility Costs	Total After Distribution
	d. Cerebral Palsy & Rehab. (cont.)									
355	4. Physical Therapy									
356	5. Occupational Therapy									
357	6. Other Therapies									
358	7. Mental Health									
359	8. Medical Social Services									
360	SUBTOTAL d									
	e. Methadone Maintenance									
361	1. Medical									
362	2. Mental Health									
363	3. Dispensing									
364	SUBTOTAL e									
	f. Hemodialysis									
365	1. Medical									
366	2. Chronic Dialysis									
367	3. Home Dialysis									
368	4. Peritoneal Dialysis									
369	SUBTOTAL f									
	g. Dental									
370	1. Dental Services									
371	2. Dental Laboratory									
372	TOTAL (f & Ig)									
	h. Speech & Hearing									
373	1.									
374	2.									
375	3.									
376	SUBTOTAL g									
	i. Drug Free.									
377	1.									
378	2.									
379	3.									
380	SUBTOTAL i									
	j. Hemophilia									
381	1.									
382	2.									
384	3.									
389	SUBTOTAL j									

**New York State Department of Health
Certificate of Need Application**

Schedule 17E

Schedule 17 E - D&TC Statement of Revenue:

This schedule consists of: "Detailed Monthly Cash Flow Analysis for the first year of operations to be submitted as an attachment; and analysis of:"

- Patient Revenue
- Other Operating Revenue
- Non-Operating Revenue
- Charges

Provide a breakdown of the utilization (threshold visits) by payer source. Provide supporting calculations for the rates assumed for each payer.

Table 17E-1 D&TC Statement of Revenue

I. Patient Revenue	Commercial	585,701	
		585,701	
	Medicare	1,306,237	
		903,773	
	Medicaid	4,570,746	
		4,673,825	
	Private Pay		445,394
	OASAS		
	OMH		
	Charity Care		
	Bad Debt		(698,804)
	Ordered Ambulatory Services		
All Other		904,696	
TOTAL		13,277,271	
II. Other Operating Revenue	Sale of Literature		
	Sale of Supplies to Other than Patients		
	Telephone		
	Other		
	TOTAL		
III. Non-Operating Revenue	Gifts, Legacies, and Bequests		2,000,000
	Grants		7,500,000
	Community Health Center (Sec 330)		
	Maternal and Child Health (Title V)		
	WIC Administrative Funds		
	Primary and Ambulatory Care Program		
	Local Health Assistance Funds		
	Family Planning		
	Other Grants (Specify)		
	Other Non-Operating Revenue		
TOTAL		9,500,000	
IV. Total Revenue (I, II, and III)			22,777,271