

# Sale Agreement

## INSERTS

- 1A. (a) the parcel of land more particularly described as Block 9762, Lot 1 on the New York City Tax Map, Queens County (the "Land");
- 1B. in the Rider attached to this Contract and
- 1C. At the request of Seller, Purchaser shall arrange for the wire transfer of the Purchase Price to one (1) or more accounts designated by Seller. In no event shall Seller be obligated to accept any attorney escrow account checks.
- 2A. interest bearing
- 2B. shall
- 2C. five (5)
- 3A. Seller shall terminate or otherwise release the Premises from any and all service contracts or other contracts prior to Closing, and the Premises shall be sold and transferred to Purchaser free from all service and other contracts on the Closing Date.
- 3B. is annexed hereto as Schedule G, and
- 3C. Except as expressly set forth herein to the contrary, the representations and warranties made herein shall not survive the Closing.
- 3D. (a) On the Closing Date, Seller and Purchaser shall (i) execute and deliver to one another a lease in form of Schedule H annexed hereto between Purchaser, as landlord, and Seller, as tenant (the "Lease") with respect to the portions of the Premises described in the Lease (the "Leased Area") and (ii) the use and occupancy rights relating thereto, as described in the Lease (the "Lease Rights"). Except for the Lease, the Leased Area, and the Lease Rights, the Premises shall be delivered to Purchaser on the Closing Date free from leases, occupants and rights of tenants. Seller shall vacate all portions of the Premises, other than the Leased Area, prior to the Closing Date, and Seller shall deliver all portions of the Premises, other than the Leased Area, free from leases, tenants and occupants on the Closing Date. Except for the Lease Rights, the Premises shall be free from rights of tenants and occupants on the Closing Date.
- (b) The execution and delivery by Seller and Purchaser of the Lease shall constitute both a Closing delivery and a Closing condition hereunder, which Closing condition may only be waived by Seller, in Seller's sole discretion. Seller has advised Purchaser that under no circumstances will Seller, as tenant, subordinate its leasehold interest in the Lease to the lien of any acquisition financing, construction financing or other financing to be obtained by Purchaser or to any ground or other lease with respect to the Property, and the parties hereto agree that the Lease shall be senior and superior thereto, unless Purchaser's lender shall deliver a subordination, non-disturbance and attornment agreement to Purchaser in a usual and customary form which is reasonably acceptable to Seller
- 4A. The provisions of Section 5-1311 of the General Obligations Law shall not apply to the sale and purchase provided for in this Agreement, and shall be superceded and replaced by this Article 8.
- 8.01 Notwithstanding anything to the contrary contained herein, expressed or implied, and notwithstanding any provisions of law to the contrary (i) the risk of loss of the Premises shall pass to the Purchaser immediately upon the execution and delivery of this Agreement and (ii) in the event that all or any portion of the Premises is damaged by fire or casualty prior to the Closing, this Agreement shall continue in full force and effect and may not be terminated by either Seller or Purchaser. Purchaser shall take title to the Premises at Closing, subject to such damage, but without reduction in the Purchase Price. All insurance proceeds collectable by reason of any damage by fire or other casualty, net of reasonable costs of collection, shall be paid to Purchaser. If insured proceeds are not

collected prior to Closing, Seller shall assign all of Seller's insurance claims (except for rent or business interruption insurance proceeds for the period through the Closing Date, which shall remain the property of Seller) to Purchaser at the Closing.

8.02 Risk of loss resulting from any condemnation or eminent domain proceedings affecting the Premises which are commenced before the Closing shall remain with Seller until the Closing. If, prior to the Closing, the Premises, or any material portion thereof, shall become the subject of any proceedings, judicial, administrative or otherwise (other than a temporary taking which is not expected to last more than one hundred eighty (180) days beyond the Outside Closing Date), with respect to the taking by eminent domain or condemnation, then Purchaser may terminate this Agreement by written notice to Seller given within ten (10) days after Purchaser receives written notice or obtains actual knowledge of the taking, in which event the Downpayment shall be returned to Purchaser. If the Scheduled Closing Date or Outside Closing Date is within the aforesaid ten (10) day period, then the Closing shall be extended to the next business day following the end of said ten (10) day period. If no such election is made, and in any event if the taking is not material, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken by eminent domain or condemnation, shall be effected with no further adjustment, and with no abatement of the Purchase Price, and upon the Closing of this transaction, Seller shall assign, transfer and set over to Purchaser all of the right, title and interest of Seller in and to any awards that have been made, or that may hereafter be made, for such taking. To the extent payment is due to Purchaser pursuant to the previous sentence, Seller shall not settle with any condemning authority or similar agency with respect to the payment of any award payable as a result of such taking without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed). For the purposes of this Article 8, the phrase "material portion" means a condemnation or eminent domain proceeding (i) affecting not less than ten (10%) of the gross square footage of the Premises and (ii) by virtue of which Purchaser determines, in its reasonable discretion, that Purchaser is unable to develop the Property as contemplated by Purchaser.

- 4B. presently in effect or other commercially reasonable policies of insurance,
- 4C. ; provided, however, that Seller may, in Seller's sole discretion, remove, without obligation to replace, any or all of the fixtures, trade fixtures, office equipment, medical fixtures, hospital equipment, closed circuit televisions, business fixtures, hospital fixtures, air handling units, HVAC units, apparatus and/or other personal property (collectively, "Seller's Property") from the Premises prior to the Closing, it being acknowledged by Purchaser that Purchaser is acquiring the Premises for development purposes, and that Purchaser has assigned no value to any of Seller's Property. Except as expressly set forth in the Lease (hereinafter defined), any of Seller's Property which is not removed from the Premises on or prior to the Closing Date (other than Seller's Property used or useable in the Lease Area) shall be deemed abandoned by Seller, and may either be kept or discarded by Purchaser. Seller's Property which is used or useable in the Lease Area may be removed by Seller on or before the expiration or termination of the Lease, and subject to the terms and conditions of the Lease. Further, Purchaser acknowledges that the units located within the Premises are currently being occupied by Seller as offices and Purchaser is acquiring the Premises with the intention of converting such units to "Class A" apartments (without the obligation to do so) and, as such, the fixtures, equipment and personal property at the Premises, and the physical condition thereof, are not of material significance to the transaction contemplated hereunder. All such property shall be accepted by Purchaser in its "as is" and "where is" condition on the Closing Date.
- 4D. No consent of Purchaser shall be required with respect to any tax protests relating to the 2004/05 tax fiscal year or any periods prior thereto, and Seller may withdraw or settle such protests (if any) without the consent of Purchaser prior or subsequent to the Closing.
- 4E. , under Seller's supervision or under the supervision of Seller's representative or real estate broker, for the purpose of inspecting the Premises, provided that (i) such access shall be made in a manner which shall cause the least possible interference with Seller and (ii) Purchaser shall indemnify, defend and hold Seller harmless from and against any and all loss, liability and/or damage resulting from Purchaser's access to the Premises.

- 5A. , without representation or warranty with respect thereto, and only to the extent same are located at the Premises or are otherwise in the possession of Seller, but excluding any such certificates, licenses, permits, authorizations and approvals issued solely with respect to Seller's business operations. No certificates, licenses, permits, authorizations or approvals which are assigned to Purchaser are required to be assumed by Purchaser.
- 5B. and indemnity agreements
- 5C. , or judgments or liens which are against Seller but which do not relate specifically to the Premises (i.e., mechanics liens against other hospital properties), to the extent same shall be omitted by the Title Company.
- 5D. (to the extent payable by Seller)
- 5E. at or prior to Closing, but only to the extent same are located at the Premises or otherwise in the possession of Seller.
- 5F. (g) business improvement district charges and other governmental and quasi-governmental taxes, fees and charges.
- 5G. This sale shall be free and clear of liens and judgments which have attached to the Premises.
- 6A. If Seller defaults in its obligation to convey the Premises hereunder, or in any of its other obligations under this Agreement, Purchaser's sole and exclusive remedy shall be either (i) to seek specific performance of this Agreement (without seeking damages); or (ii) to terminate this Agreement and to receive a refund of the Downpayment (without seeking damages); or (iii) to waive Seller's default and close hereunder on or before the Outside Closing Date, without seeking damages and without a credit against or an abatement of the Purchase Price. Purchaser shall elect between the remedies in clauses (i), (ii) and (iii) above, and Purchaser may not seek to pursue more than one (1) of such remedies simultaneously. Purchaser hereby waives and forever releases any right, at law or in equity, to seek to recover damages from Seller based upon Seller's breach of, or default under, this Agreement.
- 6B. recognized overnight courier service or
- 6C. Notices may be sent by the respective attorneys for the parties with the same force and effect as notices sent by the parties themselves.
- 7A. bank or certified check, or by wire transfer
- 7B. of record
- 7C. unmarketable and/or uninsurable at regular rates without the payment of additional premiums
- 8A. The balance of the Purchase Price shall be payable in full to Seller, or as Seller may direct, on the Closing Date,
- 8B. Nicholas T. Donovan, Esq.  
Donovan & Giannuzzi, LLP  
261 Madison Avenue, 22<sup>nd</sup> Floor  
New York, New York 10016

And

Eugene Colon, Esq.  
c/o Saint Vincents Catholic Medical Centers of New York  
450 West 33<sup>rd</sup> Street, 12<sup>th</sup> Floor  
New York, New York 10001

8C. Dean Fong, Esq.  
212 Canal Street  
Suite 404  
New York, New York 10013

Prepared by the Real Property Committee of the Association of the Bar of the City of New York.

NOTE: This form is intended to cover matters common to most transactions. Provisions should be added, altered or deleted to suit the circumstances of a particular transaction.

Contract of Sale—Office, Commercial and Multi-Family Residential Premises

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CONTRACT dated August \_\_, 2005 between

SAINT VINCENT'S CATHOLIC MEDICAL CENTERS OF NEW YORK, having an address at 170 West 12th Street, New York, New York 10011

("Seller") and

KINCHUNG LAM, having an address at c/o Hack Real Estate Associates, 224-19 Union Turnpike, Oakland Gardens, New York 11364

("Purchaser").

Seller and Purchaser hereby covenant and agree as follows:

Section 1. Sale of Premises and Acceptable Title

§1.01 Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, at the price and upon the terms and conditions set forth in this contract: (a) the parcel of land more particularly described in Schedule A attached hereto (the "Land"); (b) all buildings and improvements situated on the Land (collectively, "Building"); (c) all right, title and interest of Seller, 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, equipment and other personal property attached or appurtenant to the Building (collectively, "Premises"). The Premises are located at or known as

Block: 9762
Lot: 1
County: Queens

§1.02. Seller shall convey and Purchaser shall accept fee simple title to the Premises in accordance with the terms of this contract, subject only to: (a) the matters set forth in Schedule B attached hereto (collectively, "Permitted Exceptions"); and (b) such other matters as (i) the title insurer specified in Schedule D attached hereto (or if none is so specified, then any title

insurer licensed to do business by the State of New York) shall be willing, without special premium, to omit as exceptions to coverage or to except with insurance against collection out of or enforcement against the Premises and (ii) shall be accepted by any lender described in Section 274-a of the Real Property Law ("Institutional Lender") which has committed in writing to provide mortgage financing to Purchaser for the purchase of the Premises ("Purchaser's Institutional Lender"), except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld or delayed, such acceptance shall be deemed to have been given.

Section 2. Purchase Price, Acceptable Funds, Existing Mortgages, Purchase Money Mortgage, Escrow of Downpayment and Foreign Persons

§2.01. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Premises as provided in Schedule C attached hereto is \$12,500,000.00

§2.02. All monies payable under this contract, unless otherwise specified in this contract, shall be paid by (a) certified checks of Purchaser or any person making a purchase money loan to Purchaser drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York or (b) official bank checks drawn by any such banking institution, payable to the order of Seller, except that uncertified checks of Purchaser payable to the order of Seller up to the amount of one-half of one percent of the Purchase Price shall be acceptable for sums payable to Seller at the Closing.

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§2.03. (a) If Schedule C provides for the acceptance of title by Purchaser subject to one or more existing mortgages (collectively, "Existing Mortgage(s)"), the amounts specified in Schedule C with reference thereto may be approximate. If at the Closing the aggregate principal amount of the Existing Mortgage(s), as reduced by payments required thereunder prior to the Closing, is less than the aggregate amount of the Existing Mortgage(s) as specified in Schedule C, the difference shall be added to the monies payable at the Closing, unless otherwise expressly provided herein.

(b) If any of the documents constituting the Existing Mortgage(s) or the note(s) secured thereby prohibits or restricts the conveyance of the Premises or any part thereof without the prior consent of the holder or holders thereof ("Mortgagee(s)") or confers upon the Mortgagee(s) the right to accelerate payment of the indebtedness or to change the terms of the Existing Mortgage(s) in the event that a conveyance is made without consent of the Mortgagee(s), Seller shall notify such Mortgagee(s) of the proposed conveyance to Purchaser within 10 days after execution and delivery of this contract, requesting the consent of such Mortgagee(s) thereto. Seller and Purchaser shall furnish the Mortgagee(s) with such information as may reasonably be required in connection with such request and shall otherwise cooperate with such Mortgagee(s) and with each other in an effort expeditiously to procure such consent, but neither shall be obligated to make any payment to obtain such consent. If such Mortgagee(s) shall fail or refuse to grant such consent in writing on or before the date set forth in Schedule D or shall require as a condition of the granting of such consent (i) that additional consideration be paid to the Mortgagee(s) and neither Seller nor Purchaser is willing to pay such additional consideration or (ii) that the terms of the Existing Mortgage(s) be changed and Purchaser is unwilling to accept such change, then unless Seller and Purchaser mutually agree to extend such date or otherwise modify the terms of this contract, Purchaser may terminate this contract in the manner provided in §13.02. If Schedule C provides for a Purchase Money Mortgage (as defined in §2.04) Seller may also terminate this contract in the manner provided in §13.02 if any of the foregoing circumstances occur or if Seller is unwilling to accept any such change in the terms of the Existing Mortgage(s).

§2.04. (a) If Schedule C provides for payment of a portion of the Purchase Price by execution and delivery to Seller of a note secured by a purchase money mortgage ("Purchase Money Mortgage"), such note and Purchase Money Mortgage shall be drawn by the attorney for the Seller on the most recent forms of the New York Board of Title Underwriters for notes and for mortgages of like lien, as modified by this contract. At the Closing, Purchaser shall pay the mortgage recording tax and recording fees therefor and the filing fees for any financing statements delivered in connection therewith.

(b) If Schedule C provides for the acceptance of title by Purchaser subject to Existing Mortgage(s) prior in lien to the Purchase Money Mortgage, the Purchase Money Mortgage shall provide that it is subject and subordinate to the lien(s) of the Existing Mortgage(s) and shall be subject and subordinate to any extensions, modifications, renewals, consolidations, substitutions or replacements thereof (collectively, "Refinancing" or "Refinanced Mortgage"), provided that (i) the rate of interest payable under a Refinanced Mortgage shall not be greater than that specified in Schedule D as the Maximum Interest Rate or, if no Maximum Interest Rate is specified in Schedule D, shall not be greater than the rate of interest that was payable on the refinanced indebtedness immediately prior to such Refinancing, and (ii) if the principal amount of the Refinanced Mortgage plus the principal amount of other Existing Mortgage(s), if any, remaining after placement of a Refinanced Mortgage exceeds the amount of principal owing and unpaid on all mortgages on the Premises superior to the Purchase Money Mortgage immediately prior to the Refinancing, an amount equal to the excess shall be paid at the closing of the Refinancing to the holder of the Purchase Money Mortgage in reduction of principal payments due thereunder in inverse order of maturity. The Purchase Money Mortgage shall further provide that the holder thereof shall, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements reasonably required by the mortgagor to confirm such subordination.

(c) The Purchase Money Mortgage shall contain the following additional provisions:

(i) "The mortgagor or any owner of the mortgaged premises shall have the right to prepay the entire unpaid indebtedness together with accrued interest, but without penalty, at any time on or after [insert the day following the last day of the fiscal year of the mortgagee in which the Closing occurs or if a Prepayment Date is specified in Schedule D, the specified Prepayment Date], on not less than 10 days' written notice to the holder hereof."

(ii) "Notwithstanding anything to the contrary contained herein, the obligation of the mortgagor for the payment of the indebtedness and for the performance of the terms, covenants and conditions contained herein and in the note secured hereby is limited solely to recourse against the property secured by this mortgage, and in no event shall the mortgagor or any principal of the mortgagor, disclosed or un-

disclosed, be personally liable for any breach of or default under the note or this mortgage or for any deficiency resulting from or through any proceedings to foreclose this mortgage, nor shall any deficiency judgment, money judgment or other personal judgment be sought or entered against the mortgagor or any principal of the mortgagor, disclosed or undisclosed, but the foregoing shall not adversely affect the lien of this mortgage or the mortgagee's right of foreclosure."

(iii) "In addition to performing its obligations under Section 274-a of the Real Property Law, the mortgagee, if other than one of the institutions listed in Section 274-a, agrees that, within 10 days after written request by the mortgagor, but not more than twice during any period of 12 consecutive months, it will execute, acknowledge and deliver without charge a certificate of reduction in recordable form (a) certifying as to (1) the then unpaid principal balance of the indebtedness secured hereby, (2) the maturity date thereof, (3) the rate of interest, (4) the last date to which interest has been paid and (5) the amount of any escrow deposits then held by the mortgagee, and (b) stating, to the knowledge of the mortgagee, whether there are any alleged defaults hereunder and, if so, specifying the nature thereof."

(iv) "All notices required or desired to be given under this mortgage shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail, addressed to the mortgagor and mortgagee at the addresses specified in this mortgage or to such other parties or at such other addresses, not exceeding two, as may be designated in a notice given to the other party or parties in accordance with the provisions hereof."

(v) The additional provisions, if any, specified in a rider hereto

§2.05. (a) If the sum paid under paragraph (a) of Schedule C or any other sums paid on account of the Purchase Price prior to the Closing (collectively, "Downpayment") are paid by check or checks drawn by the order of and delivered to Seller's attorney or another escrow agent ("Escrowee"), the Escrowee shall hold the proceeds thereof in escrow in a special bank account (or as otherwise agreed in writing by Seller, Purchaser and Escrowee) until the Closing or sooner termination of this contract and shall pay over or apply such proceeds in accordance with the terms of this section. Escrowee need not hold such proceeds in an interest-bearing account, but if any interest is earned thereon, such interest shall be paid to the same party entitled to the escrowed proceeds, and the party receiving such interest shall pay any income taxes thereon. The tax identification numbers of the parties are either set forth in Schedule D or shall be furnished to Escrowee upon request. At the Closing, such proceeds and the interest thereon, if any, shall be paid by Escrowee to Seller. If for any reason the Closing does not occur and either party makes a written demand upon Escrowee for payment of such amount, Escrowee shall give written notice to the other party of such demand. If Escrowee does not receive a written objection from the other party to the proposed payment within ~~10~~ <sup>2A</sup> business days after the giving of such notice, Escrowee is hereby authorized to make such payment. If Escrowee does receive such written objection within such ~~10~~ <sup>2B</sup> day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by written instructions from the parties to this contract or a final judgment of a court. However, Escrowee shall have the right at any time to deposit the escrowed proceeds and interest thereon, if any, with the clerk of the Supreme Court of the county in which the Land is located. Escrowee shall give written notice of such deposit to Seller and Purchaser. Upon such deposit Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience, that Escrowee shall not be deemed to be the agent of either of the parties, and that Escrowee shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this contract or involving gross negligence. Seller and Purchaser shall jointly and severally indemnify and hold Escrowee harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith, in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this contract.

§2.06. In the event that Seller is a "foreign person", as defined in Internal Revenue Code Section 1445 and regulations issued thereunder (collectively, the "Code Withholding Section"), or in the event that Seller fails to deliver the certification of non-foreign status required under §10.12(c), or in the event that Purchaser is not entitled under the Code Withholding Section to rely on such certification, Purchaser shall deduct and withhold from the Purchase Price a sum equal to ten percent (10%) thereof and shall at Closing remit the withheld

amount with Forms 8288 and 8288A (or any successors thereto) to the Internal Revenue Service; and if the cash balance of the Purchase Price payable to Seller at the Closing after deduction of net adjustments, apportionments and credits (if any) to be made or allowed in favor of Seller at the Closing as herein provided is less than ten percent (10%) of the Purchase Price, Purchaser shall have the right to terminate this contract, in which event Seller shall refund the Downpayment to Purchaser and shall reimburse Purchaser for title examination and survey costs as if this contract were terminated pursuant to §13.02. The right of termination provided for in this §2.06 shall be in addition to and not in limitation of any other rights or remedies available to Purchaser under applicable law.

#### ~~Section 3. The Closing~~

~~§3.01. Except as otherwise provided in this contract, the closing of title pursuant to this contract ("Closing") shall take place on the scheduled date and time of closing specified in Schedule D (the actual date of the Closing being herein referred to as "Closing Date") at the place specified in Schedule D.~~

#### Section 4. Representations and Warranties of Seller

Seller represents and warrants to Purchaser as follows:

§4.01. Unless otherwise provided in this contract, Seller is the sole owner of the Premises.

§4.02. ~~If the Premises are encumbered by an Existing Mortgage(s), no written notice has been received from the Mortgagee(s) asserting that a default or breach exists thereunder which remains uncured and no such notice shall have been received and remain uncured on the Closing Day. Copies of documents constituting the Existing Mortgage(s) and note(s) secured thereby have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals and the Existing Mortgage(s) and note(s) secured thereby have not been modified or amended except as shown on such documents.~~

~~§4.03. The information concerning written leases (which together with all amendments and modifications thereof are collectively referred to as "Leases") and any tenancies in the Premises not arising out of the Leases (collectively, "Tenancies") set forth in Schedule E attached hereto ("Rent Schedule") is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof, and there are no Leases or Tenancies of any space in the Premises other than those set forth therein and any subleases or subtenancies. Except as otherwise set forth in the Rent Schedule or elsewhere in this contract:~~

(a) all of the Leases are in full force and effect and none of them has been modified, amended or extended;

(b) no renewal or extension options have been granted to tenants;

(c) no tenant has an option to purchase the Premises;

(d) the rents set forth are being collected on a current basis and there are no arrearages in excess of one month;

(e) no tenant is entitled to rental concessions or abatements for any period subsequent to the scheduled date of closing;

(f) Seller has not sent written notice to any tenant claiming that such tenant is in default, which default remains uncured;

(g) no action or proceeding instituted against Seller by any tenant of the Premises is presently pending in any court, except with respect to claims involving personal injury or property damage which are covered by insurance; and

(h) there are no security deposits other than those set forth in the Rent Schedule.

If any Leases which have been exhibited to and initialed by Purchaser or its representative contain provisions that are inconsistent with the foregoing representations and warranties, such representations and warranties shall be deemed modified to the extent necessary to eliminate such inconsistency and to conform such representations and warranties to the provisions of the Leases.

§4.04. If the Premises or any part thereof are subject to the New York City Rent Stabilization Law, Seller is and on the Closing Date will be a member in good standing of the Real Estate Industry Stabilization Association, and, except as otherwise set forth in the Rent Schedule, there are no proceedings with any tenant presently pending before the Conciliation and Appeals Board in which a tenant has alleged an overcharge of rent or diminution of services or similar grievance, and there are no outstanding orders of the Conciliation and Appeals Board that have not been complied with by Seller.

§4.05. If the Premises or any part thereof are subject to the New York City Emergency Rent and Rehabilitation Law, the rents shown are not in excess of the maximum collectible rent, and, except as otherwise set forth in the Rent Schedule, no tenants are entitled to abatements as senior citizens, there are no proceedings presently pending before the rent commission in which a tenant has alleged an overcharge of rent or

diminution of services or similar grievance, and there are no outstanding orders of the rent commission that have not been complied with by Seller.

§4.06. If an insurance schedule is attached hereto, such schedule lists all insurance policies presently affording coverage with respect to the Premises, and the information contained therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.

§4.07. If a payroll schedule is attached hereto, such schedule lists all employees presently employed at the Premises, and the information contained therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof, and, except as otherwise set forth in such schedule, none of such employees is covered by a union contract and there are no retroactive increases or other accrued and unpaid sums owed to any employee.

§4.08. ~~If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is attached hereto, such schedule lists all such contracts affecting the Premises, and the information set forth therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.~~

§4.09. ~~If a copy of a certificate of occupancy for the Premises has been exhibited to and initialed by Purchaser or its representative, such copy is a true copy of the original and such certificate has not been amended, but Seller makes no representation as to compliance with any such certificate.~~

§4.10. ~~The assessed valuation and real estate taxes set forth in Schedule D, if any, are the assessed valuation of the Premises and the taxes paid or payable with respect thereto for the fiscal year indicated in such schedule. Except as otherwise set forth in Schedule D, there are no tax abatements or exemptions affecting the Premises.~~

§4.11. Except as otherwise set forth in a schedule attached hereto, if any, if the Premises are used for residential purposes, each apartment contains a range and a refrigerator, and all of the ranges and refrigerators and all of the items of personal property (or replacements thereof) listed in such schedule, if any, are and on the Closing Date will be owned by Seller free of liens and encumbrances other than the lien(s) of the Existing Mortgage(s), if any.

§4.12. Seller has no actual knowledge that any incinerator, boiler or other burning equipment on the Premises is being operated in violation of applicable law. If copies of a certificate or certificates of operation therefor have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals.

§4.13. Except as otherwise set forth in Schedule D, Seller has no actual knowledge of any assessment payable in annual installments, or any part thereof, which has become a lien on the Premises.

§4.14. Seller is not a "foreign person" as defined in the Code Withholding Section.

#### Section 5. Acknowledgments of Purchaser

Purchaser acknowledges that:

§5.01. Purchaser has inspected the Premises, is fully familiar with the physical condition and state of repair thereof, and, subject to the provisions of §7.01, §8.01, and §9.04, shall accept the Premises "as is" and in their present condition, subject to reasonable use, wear, tear and natural deterioration between now and the Closing Date, without any reduction in the Purchase Price for any change in such condition by reason thereof subsequent to the date of this contract.

§5.02. Before entering into this contract, Purchaser has made such examination of the Premises, the operation, income and expenses thereof and all other matters affecting or relating to this transaction as Purchaser deemed necessary. In entering into this contract, Purchaser has not been induced by and has not relied upon any representations, warranties or statements, whether express or implied, made by Seller or any agent, employee or other representative of Seller or by any broker or any other person representing or purporting to represent Seller, which are not expressly set forth in this contract, whether or not any such representations, warranties or statements were made in writing or orally.

#### Section 6. Seller's Obligations as to Leases

§6.01. Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not, without Purchaser's prior written consent, which consent shall not be unreasonably withheld: (a) amend, renew or extend any Lease in any respect, unless required by law; (b) grant a written lease to any tenant occupying space pursuant to a Tenancy; or (c) terminate any Lease or Tenancy except by reason of a default by the tenant thereunder.

§6.02. Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not permit occupancy of, or enter into any new lease for, space in the Building which is presently vacant or which may hereafter become vacant without first giving Purchaser written notice of the identity of the proposed tenant, together with (a) either a copy of the proposed lease or a summary of the terms thereof in reasonable detail and (b) a

~~statement of the amount of the brokerage commission, if any, payable in connection therewith and the terms of payment thereof. If Purchaser objects to such proposed lease, Purchaser shall so notify Seller within 4 business days after receipt of Seller's notice if such notice was personally delivered to Purchaser, or within 7 business days after the mailing of such notice by Seller to Purchaser, in which case Seller shall not enter into the proposed lease. Unless otherwise provided in a schedule attached to this contract, Purchaser shall pay to Seller at the Closing, in the manner specified in §2.02, the rent and additional rent that would have been payable under the proposed lease from the date on which the tenant's obligation to pay rent would have commenced if Purchaser had not so objected until the Closing Date, less the amount of the brokerage commission specified in Seller's notice and the reasonable cost of decoration or other work required to be performed by the landlord under the terms of the proposed lease to suit the premises to the tenant's occupancy ("Reletting Expenses"), prorated in each case over the term of the proposed lease and apportioned as of the Closing Date. If Purchaser does not so notify Seller of its objection, Seller shall have the right to enter into the proposed lease with the tenant identified in Seller's notice and Purchaser shall pay to Seller, in the manner specified in §2.02, the Reletting Expenses, prorated in each case over the term of the lease and apportioned as of the later of the Closing Date or the rent commencement date. Such payment shall be made by Purchaser to Seller at the Closing. In no event shall the amount so payable to Seller exceed the sums actually paid by Seller on account thereof.~~

§6.03 If any space is vacant on the Closing Date, Purchaser shall accept the Premises subject to such vacancy, provided that the vacancy was not permitted or created by Seller in violation of any restrictions contained in this contract. Seller shall not grant any concessions or rent abatements for any period following the Closing without Purchaser's prior written consent. Seller shall not apply all or any part of the security deposit of any tenant unless such tenant has vacated the Premises.

§6.04 Seller does not warrant that any particular Lease or Tenancy will be in force or effect at the Closing or that the tenants will have performed their obligations thereunder. The termination of any Lease or Tenancy prior to the Closing by reason of the tenant's default shall not affect the obligations of Purchaser under this contract in any manner or entitle Purchaser to an abatement of or credit against the Purchase Price or give rise to any other claim on the part of Purchaser.

§6.05 Seller hereby indemnifies and agrees to defend Purchaser against any claims made pursuant to §7-107 or §7-108 of the General Obligations Law (the "GOL") by tenants who resided in the Premises or prior to the Closing Date other than (a) claims with respect to tenants' security deposits paid, credited or assigned to Purchaser pursuant to §10.03, (b) claims made pursuant to §7-107 of the GOL with respect to funds for which Seller was not liable, and (c) claims made pursuant to §7-108 of the GOL by tenants to whom Purchaser failed to give the written notice specified in §7-108(c) of the GOL within thirty days after the Closing Date. The foregoing indemnity and agreement shall survive the Closing and shall be in lieu of any escrow permitted by §7-108(d) of the GOL, and Purchaser hereby waives any right it may have to require any such escrow.

#### Section 7. Responsibility for Violations

§7.01 Except as provided in §7.02 and §7.03, all notes or notices of violations of law or governmental ordinances, orders or requirements which were noted or issued prior to the date of this contract by any governmental department, agency or bureau having jurisdiction as to conditions affecting the Premises and all liens which have attached to the Premises prior to the Closing pursuant to the Administrative Code of the City of New York, if applicable, shall be removed or complied with by Seller. If such removal or compliance has not been completed prior to the Closing, Seller shall pay to Purchaser at the Closing the reasonably estimated unpaid cost to effect or complete such removal or compliance, and Purchaser shall be required to accept title to the Premises subject thereto, except that Purchaser shall not be required to accept such title and may terminate this contract as provided in §13.02 if (a) Purchaser's Institutional Lender reasonably refuses to provide financing by reason thereof or (b) the Building is a multiple dwelling and either (i) such violation is rent impacting and causes rent to be unrecoverable under Section 302-a of the Multiple Dwelling Law or (ii) a proceeding has been validly commenced by tenants and is pending with respect to such violation for a judgment directing deposit and use of rents under Article 7-a of the Real Property Actions and Proceedings Law. All such notes or notices of violations noted or issued on or after the date of this contract shall be the sole responsibility of Purchaser.

§7.02 If the reasonably estimated aggregate cost to remove or comply with any violations or liens which Seller is required to remove or comply with pursuant to the provisions of §7.01 shall exceed the Maximum Amount specified in Schedule D or if none is so specified, the Maximum Amount shall be one-half of one percent of the Purchase Price, Seller shall have the right to cancel this contract in which event the sole

~~liability of Seller shall be as set forth in §13.02, unless Purchaser elects to accept title to the Premises subject to all such violations or liens, in which event Purchaser shall be entitled to a credit of an amount equal to the Maximum Amount against the monies payable at the Closing.~~

§7.03 Regardless of whether a violation has been noted or issued prior to the date of this contract, Seller's failure to remove or fully comply with any violations which a tenant is required to remove or comply with pursuant to the terms of its lease by reason of such tenant's use or occupancy shall not be an objection to title. Purchaser shall accept the Premises subject to all such violations without any liability of Seller with respect thereto or any abatement of or credit against the Purchase Price, except that if Purchaser's Institutional Lender reasonably refuses to provide financing by reason of a violation described above, Purchaser shall not be required to accept the Premises subject thereto and Purchaser shall have the right to terminate this contract in the manner provided in §13.02.

§7.04 If required, Seller, upon written request by Purchaser, shall promptly furnish to Purchaser written authorizations to make any necessary searches for the purposes of determining whether notes or notices of violations have been noted or issued with respect to the Premises or liens have attached thereto.

#### Section 8. Destruction, Damage or Condemnation

§8.01 ~~The provisions of Section 5-111 of the General Obligations Law shall apply to the sale and purchase provided for in this contract.~~

#### Section 9. Covenants of Seller

Seller covenants that between the date of this contract and the Closing:

~~§9.01 The Existing Mortgage(s) shall not be amended or supplemented or prepaid in whole or in part. Seller shall pay or make, as and when due and payable, all payments of principal and interest and all deposits required to be paid or made under the Existing Mortgage(s).~~

§9.02 Seller shall not modify or amend any Service Contract or enter into any new service contract unless the same is terminable without penalty by the then owner of the Premises upon not more than 30 days' notice.

§9.03 If an insurance schedule is attached hereto, Seller shall maintain in full force and effect until the Closing the insurance policies described in such schedule or renewals thereof for no more than one year of those expiring before the Closing.

§9.04 No fixtures, equipment or personal property included in this sale shall be removed from the Premises unless the same are replaced with similar items of at least equal quality prior to the Closing.

§9.05 Seller shall not withdraw, settle or otherwise compromise any protest or reduction proceeding affecting real estate taxes assessed against the Premises for any fiscal period in which the Closing is to occur or any subsequent fiscal period without the prior written consent of Purchaser, which consent shall not be unreasonably withheld. Real estate tax refunds and credits received after the Closing Date which are attributable to the fiscal tax year during which the Closing Date occurs shall be apportioned between Seller and Purchaser, after deducting the expenses of collection thereof, which obligation shall survive the Closing.

§9.06 Seller shall allow Purchaser or Purchaser's representatives access to the Premises, the Leases and other documents required to be delivered under this contract upon reasonable prior notice at reasonable times.

#### Section 10. Seller's Closing Obligations

At the Closing, Seller shall deliver the following to Purchaser:

§10.01 A statutory form of bargain and sale deed without covenant against grantor's acts, containing the covenant required by Section 13 of the Lien Law, and properly executed in proper form for recording so as to convey the title required by this contract.

~~§10.02 All Leases initiated by Purchaser and all others in Seller's possession.~~

§10.03 A schedule of all security deposits (and, if the Premises contains six or more family dwelling units, the most recent reports with respect thereto issued by each banking organization in which they are deposited pursuant to GOL §7-103) and a check or credit to Purchaser in the amount of any cash security deposits, including any interest thereon, held by Seller on the Closing Date or, if held by an Institutional Lender, an assignment to Purchaser and written instructions to the holder of such deposits to transfer the same to Purchaser, and appropriate instruments of transfer or assignment with respect to any security deposits which are other than cash.

§10.04 A schedule updating the Rent Schedule and setting forth all arrears in rent and all prepayments of rent.

§10.05 All Service Contracts initiated by Purchaser and all others in Seller's possession which are in effect on the Closing Date and which are assignable by Seller.

§10.06. An assignment to Purchaser, without recourse or warranty, of all of the interest of Seller in those Service Contracts, ~~insurance policies~~, certificates, permits and other documents to be delivered to Purchaser at the Closing which are then in effect and are assignable by Seller.

§10.07. ~~(a) Written consent(s) of the Mortgagee(s), if required under §2.03(b), and (b) certificate(s) executed by the Mortgagee(s) in proper form for recording and certifying (i) the amount of the unpaid principal balance thereof, (ii) the maturity date thereof, (iii) the interest rate, (iv) the last date to which interest has been paid thereon and (v) the amount of any escrow deposits held by the Mortgagee(s). Seller shall pay the fees for recording such certificate(s). Any Mortgagee which is an Institutional Lender may furnish a letter complying with Section 274-a of the Real Property Law in lieu of such certificate.~~

§10.08. An assignment of all Seller's right, title and interest in escrow deposits for real estate taxes, insurance premiums and other amounts, if any, then held by the Mortgagee(s).

§10.09. All original insurance policies with respect to which premiums are to be apportioned or, if unobtainable, true copies or certificates thereof.

§10.10. To the extent they are then in Seller's possession and not posted at the Premises, certificates, licenses, permits, authorizations and approvals issued for or with respect to the Premises by governmental and quasi-governmental authorities having jurisdiction.

§10.11. Such affidavits ~~as Purchaser's title company~~ shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller's name.

§10.12(a) Checks to the order of the appropriate officers in payment of all applicable real property transfer taxes and copies of any required tax returns therefor executed by Seller, which checks shall be certified or official bank checks if required by the taxing authority, ~~unless Seller elects to have Purchaser pay any of such taxes and credit Purchaser with the amount thereof, (b) the Tentative Assessment and Return or Statement of No Tax Due or affidavit (whichever is applicable) and the checks and other items (if any) required under §17-09(c), and (c) a certification of non-foreign status, in form required by the Code Withholding Section, signed under penalty of perjury. Seller understands that such certification will be retained by Purchaser and will be made available to the Internal Revenue Service on request.~~

§10.13. ~~To the extent they are then in Seller's possession, copies of current painting and payroll records. Seller shall make all other Building and tenant files and records available to Purchaser for copying, which obligation shall survive the Closing.~~

§10.14. ~~An original letter, executed by Seller or by its agent, advising the tenants of the sale of the Premises to Purchaser and directing that rents and other payments thereafter be sent to Purchaser or as Purchaser may direct.~~

§10.15. Notice(s) to the Mortgagee(s), executed by Seller or by its agent, advising of the sale of the Premises to Purchaser and directing that future bills and other correspondence should thereafter be sent to Purchaser or as Purchaser may direct.

§10.16. If Seller is a corporation and if required by Section 909 of the Business Corporation Law, a resolution of Seller's board of directors authorizing the sale and delivery of the deed and a certificate executed by the secretary or assistant secretary of Seller certifying as to the adoption of such resolution and setting forth facts showing that the transfer complies with the requirements of such law. The deed referred to in §10.01 shall also contain a recital sufficient to establish compliance with such law.

§10.17. Possession of the Premises ~~in the condition required by this contract, subject to the Leases and Tenancies, and keys therefor.~~

§10.18. Any other documents required by this contract to be delivered by Seller.

### Section 11. Purchaser's Closing Obligations

At the Closing, Purchaser shall:

§11.01. Deliver to Seller checks in payment of the portion of the Purchase Price payable at the Closing, as adjusted for apportionments under Section 12, ~~plus the amount of any deposits, if any, assigned pursuant to §10.08.~~

§11.02. ~~Deliver to Seller the Purchase Money Mortgage, if any, in proper form for recording, (the note secured thereby, financing statements covering personal property fixtures and equipment included in this sale and replacements thereof, all properly executed, and Purchaser shall pay the mortgage recording tax and recording fees for any Purchase Money Mortgage.~~

§11.03. Deliver to Seller an agreement indemnifying and agreeing to defend Seller against any claims made by tenants with respect to tenants' security deposits to the extent paid, credited or assigned to Purchaser under §10.03.

§11.04. Cause the deed to be recorded, duly complete all required real property transfer tax returns and cause all such returns and checks in payment of such taxes to be delivered to the appropriate officers promptly after the Closing.

§11.05. Deliver any other documents required by this contract to be delivered by Purchaser.

### Section 12. Apportionments

§12.01. The following apportionments shall be made between the parties at the Closing as of the close of business on the day prior to the Closing Date:

~~(a) prepaid rent and Additional Rents (as defined in §12.03);~~

~~(b) interest on the Existing Mortgage(s);~~

(c) real estate taxes, water charges, sewer rents and vault charges, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Premises, apportionment at the Closing shall be based on the last available reading, subject to adjustment after the Closing when the next reading is available;

~~(d) wages, vacation pay, pension and welfare benefits and other fringe benefits of all persons employed at the Premises whose employment was not terminated at or prior to the Closing;~~

(e) value of fuel stored on the Premises, at the price then charged by Seller's supplier, including any taxes;

~~(f) charges under transferable Service Contracts or permitted renewals or replacements thereof;~~

~~(g) permitted administrative charges, if any, on tenants' security deposits;~~

(h) dues to rent stabilization associations, if any;

(i) insurance premiums on transferable insurance policies listed on a schedule hereto or permitted renewals thereof;

(j) Relisting Expenses under §6.02, if any; and

~~(k) any other items listed in Schedule D.~~

If the Closing shall occur before a new tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the old tax rate for the preceding period applied to latest assessed valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such recomputation and any errors or omissions in computing apportionments at Closing shall be promptly corrected, which obligations shall survive the Closing.

§12.02. ~~If any tenant is in arrears in the payment of rents on the Closing Date, rents received from such tenant after the Closing shall be applied in the following order of priority: (a) first to the month preceding the month in which the Closing occurred; (b) then to the month in which the Closing occurred; (c) then to any month or months following the month in which the Closing occurred; and (d) then to the period prior to the month preceding the month in which the Closing occurred. If rents or any portion thereof received by Seller or Purchaser after the Closing are payable to the other party by reason of this allocation, the appropriate sum, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof, shall be promptly paid to the other party, which obligation shall survive the Closing.~~

§12.03. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ("Additional Rents") and any Additional Rents are collected by Purchaser after the Closing which are attributable in whole or in part to any period prior to the Closing, then Purchaser shall promptly pay to Seller Seller's proportionate share thereof, less a proportionate share of any reasonable attorney fees, costs and expenses of collection thereof, if and when the tenant paying the same has made all payments of rent and Additional Rent then due to Purchaser pursuant to the tenant's lease, which obligation shall survive the Closing.

### Section 13. Objections to Title, Failure of Seller or Purchaser to Perform and Vendee's Lien

§13.01. Purchaser shall promptly order an examination of title and shall cause a copy of the title report to be forwarded to Seller's attorney upon receipt. Seller shall be entitled to a reasonable adjournment or adjournments of the Closing for up to 60 days ~~or until the expiration date of any written commitment of Purchaser's Institutional Lender delivered to Purchaser prior to the scheduled date of Closing, whichever occurs first~~ to remove any defects in or objections to title noted in such title report and any other defects or objections which may be disclosed on or prior to the Closing Date.

§13.02. If Seller shall be unable to convey title to the Premises at the Closing in accordance with the provisions of this contract or if Purchaser shall have any other grounds under this contract for refusing to consummate the purchase provided for herein, Purchaser, nevertheless, may elect to accept such title as Seller may be able to convey with a credit against the monies payable at the Closing equal to the reasonably estimated cost to cure the same (up to the Maximum Expense described below) but without any other credit or liability on the part of Seller. If Purchaser shall not so elect, Pur-

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chaser may terminate this contract and the sole liability of Seller shall be to refund the Downpayment to Purchaser and to reimburse Purchaser for the net cost of title examination, but not to exceed the net amount charged by Purchaser's title company therefor without issuance of a policy, and the net cost of updating the existing survey of the Premises or the net cost of a new survey of the Premises if there was no existing survey or the existing survey was not capable of being updated and a new survey was required by Purchaser's Institutional Lender. Upon such refund and reimbursement, this contract shall be null and void and the parties hereto shall be relieved of all further obligations and liability other than any arising under Section 14. Seller shall not be required to bring any action or proceeding or to incur any expense in excess of the Maximum Expense specified in Schedule D (or if none is so specified, the Maximum Expense shall be one-half of one percent of the Purchase Price) to cure any title defect or to enable Seller otherwise to comply with the provisions of this contract, but the foregoing shall not permit Seller to refuse to pay off at the Closing, to the extent of the monies payable at the Closing, mortgages on the Premises, other than Existing Mortgages, of which Seller has actual knowledge.

§13.01 Any unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two days following the Closing Date, and any other liens and encumbrances which Seller is obligated to pay and discharge or which are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser on the Closing Date official bills for such taxes, assessments, water charges, sewer rents, interest and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record. Upon request made a reasonable time before the Closing, Purchaser shall provide at the Closing separate checks for the foregoing payable to the order of the holder of any such lien, charge or encumbrance and otherwise complying with §2.02. If Purchaser's title insurance company is willing to insure both Purchaser and Purchaser's Institutional Lender, if any, that such charges, liens and encumbrances will not be collected out of or enforced against the Premises, then, unless Purchaser's Institutional Lender reasonably refuses to accept such insurance in lieu of actual payment and discharge, Seller shall have the right in lieu of payment and discharge to deposit with the title insurance company such funds or assurances or to pay such special or additional premiums as the title insurance company may require in order to so insure. In such case the charges, liens and encumbrances with respect to which the title insurance company has agreed so to insure shall not be considered objections to title.

§13.04 If Purchaser shall default in the performance of its obligation under this contract to purchase the Premises, the sole remedy of Seller shall be to retain the Downpayment as liquidated damages for all loss, damage and expense suffered by Seller, including without limitation the loss of its bargain. (CA)

§13.05 Purchaser shall have a vendee's lien against the Premises for the amount of the Downpayment, but such lien shall not continue after default by Purchaser under this contract.

Section 14. Broker

§14.01 If a broker is specified in Schedule D, Seller and Purchaser mutually represent and warrant that such broker is the only broker with whom they have dealt in connection with this contract and that neither Seller nor Purchaser knows of any other broker who has claimed or may have the right to claim a commission in connection with this transaction, unless otherwise indicated in Schedule D. The commission of such broker shall be paid pursuant to separate agreement by the party specified in Schedule D. If no broker is specified in Schedule D, the parties acknowledge that this contract was brought about by direct negotiation between Seller and Purchaser and that neither Seller nor Purchaser knows of any broker entitled to a commission in connection with this transaction. Unless otherwise provided in Schedule D, Seller and Purchaser shall indemnify and defend each other against any costs, claims or expenses, including attorneys' fees, arising out of the breach on their respective parts of any representations, warranties or agreements contained in this paragraph. The representations and obligations under this paragraph shall survive the Closing or, if the Closing does not occur, the termination of this contract.

Section 15. Notices

§15.01 All notices under this contract shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail, addressed as set forth in Schedule D, or as Seller or Purchaser shall otherwise have given notice as herein provided. (CB) (CC)

Section 16. Limitations on Survival of Representations, Warranties, Covenants and other Obligations

§16.01 Except as otherwise provided in this contract, no representations, warranties, covenants or other obligations of Seller set forth in this contract shall survive the Closing, and

no action based thereon shall be commenced after the Closing. The representations, warranties, covenants and other obligations of Seller set forth in §4.03, §6.01 and §6.02 shall survive until the Limitation Date specified in Schedule D (or if none is so specified, the Limitation Date shall be the date which is six months after the Closing Date), and no action based thereon shall be commenced after the Limitation Date.

§16.02 The delivery of the deed by Seller, and the acceptance thereof by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this contract to survive the Closing.

Section 17. Gains Tax and Miscellaneous Provisions

~~§17.01 If consent of the Existing Mortgagee(s) is required under §2.03(b), Purchaser shall not assign this contract or its rights hereunder without the prior written consent of Seller. No permitted assignment of Purchaser's rights under this contract shall be effective against Seller unless and until an executed counterpart of the instrument of assignment shall have been delivered to Seller and Seller shall have been furnished with the name and address of the assignee. The term "Purchaser" shall be deemed to include the assignee under any such effective assignment.~~

§17.02 This contract embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this contract. Neither this contract nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

§17.03 This contract shall be governed by, and construed in accordance with, the law of the State of New York.

§17.04 The captions in this contract are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this contract or any of the provisions hereof.

§17.05 This contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

§17.06 This contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser.

§17.07 As used in this contract, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context may require.

§17.08 If the provisions of any schedule or rider to this contract are inconsistent with the provisions of this contract, the provisions of such schedule or rider shall prevail. Set forth in Schedule D is a list of any and all schedules and riders which are attached hereto but which are not listed in the Table of Contents.

~~§17.09 (a) Seller and Purchaser agree to comply in a timely manner with the requirements of Article 31-B of the Tax Law of the State of New York and the regulations applicable thereto, as the same from time to time may be amended (collectively, the "Gains Tax Law"). Purchaser agrees to deliver to Seller a duly executed and acknowledged Transferee Questionnaire simultaneously with the execution of this contract or within five (5) business days after subsequent written request from Seller or Seller's attorney. At the Closing, Seller shall deliver (i) an official Statement of No Tax Due or (ii) an official Tentative Assessment and Return accompanied by a certified check or official bank check drawn on any banking institution described in §2.02(a), payable to the order of the State Tax Commission in the amount of the tax shown to be due thereon (it being understood, however, that if Seller has duly elected to pay such tax in installments, the amount so required to be paid shall be the minimum installment of such tax then permitted to be paid), or (iii) if applicable, a duly executed and acknowledged affidavit in form permitted under the Gains Tax Law claiming exemption therefrom.~~

(b) Seller agrees (i) to pay promptly any installment(s) or additional tax due under the Gains Tax Law, and interest and penalties thereon, if any, which may be assessed or due after the Closing (ii) to indemnify and save the Purchaser harmless from and against any of the foregoing and any damage, liability, cost or expense (including reasonable attorneys' fees) which may be suffered or incurred by Purchaser by reason of the non-payment thereof, and (iii) to make any other payments and execute, acknowledge and deliver such further documents as may be necessary to comply with the Gains Tax Law.

(c) If this contract is assignable by Purchaser, no assignment of any rights hereunder shall be effective unless every assignor and assignee complies in a timely manner with the requirements of the Gains Tax Law applicable to the assignment transaction and unless an assignor or assignee de-

~~Buyer to Seller at or before the Closing the applicable items referred to in subparagraph (a) of this Section, all as may be required as a prerequisite to the recording of the deed. In addition to making the payments and delivering the instruments and documents referred to above, Purchaser and any assignor or assignee of this contract shall promptly (i) make any other payments and (ii) execute, acknowledge and deliver such further documents and instruments as may be necessary to comply with the Chain Tax Law.~~

~~(d) Purchaser, if request is made within a reasonable time prior to the Closing Date, shall provide at the Closing a separate certified or official bank check drawn on any banking institution described in §2.02(a) in the amount of the tax shown to be due on the official Tentative Assessment and Return, which amount shall be credited against the balance of the Purchase Price payable at the Closing.~~

~~(c) The provisions of this §17.09 shall survive the delivery of the deed.~~

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

Seller: SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK

By: Elizabeth S. Klein  
Name: Elizabeth S. Klein  
Title: Senior Vice President

Purchaser:

Receipt by Escrowee

The undersigned Escrowee hereby acknowledges receipt of \$ 1,250,000.00, by check subject to collection, to be held in escrow pursuant to §2.05.

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KINGHUNG LAM  
KINGHUNG LAM

Donovan & Ciannuzzi, LLP  
-Schedule A-

Schedule B

PERMITTED EXCEPTIONS

1. Zoning regulations and ordinances which are not violated by the existing structures or present use thereof and which do not render title uninsurable.
2. Consents by the Seller or any former owner of the Premises for the erection of any structure or structures on, under or above any street or streets on which the Premises may abut.
3. ~~The Existing Mortgage(s) and financing statements, assignments of leases and other collateral assignments ancillary thereto.~~
4. Leases and Tenancies specified in the Rent Schedule and any new leases or tenancies not prohibited by this contract.
5. Unpaid installments of assessments not due and payable on or before the Closing Date.
6. Financing statements, chattel mortgages and liens on personalty filed more than 5 years prior to the Closing Date and not renewed, or filed against property or equipment no longer located on the Premises or owned by Tenant.

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7. (a) Rights of utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Premises, provided that none of such rights imposes any monetary obligation on the owner of the Premises.

(b) Encroachments of stoops, areas, cellar steps, trim cornices, lintels, window sills, awnings, canopies, ledges, fences, hedges, coping and retaining walls projecting from the Premises over any street or highway or over any adjoining property and encroachments of similar elements projecting from adjoining property over the Premises.

(c) Revocability or lack of right to maintain vaults, coal chutes, excavations or sub-surface equipment beyond the line of the Premises.

(d) Any state of facts that an accurate survey would disclose, provided that such facts do not render title marketable. For the purposes of this contract, none of the facts shown on the survey, if any, identified below shall be deemed to render title unmarketable, and Purchaser shall accept title subject thereto.

7C

Schedule C

PURCHASE PRICE

The Purchase Price shall be paid as follows:

(a) By check subject to collection, the receipt of which is hereby acknowledged by Seller;

\$1,250,000.00

7A

(b) By check or checks delivered to Seller at the Closing in accordance with the provisions of §2.02;

\$11,250,000.00

8A

~~(c) By acceptance of title subject to the following Existing Mortgage(s):~~

~~(d) By execution and delivery to Seller by Purchaser or its assignee of a note secured by a Purchase Money Mortgage on the Premises, payable as follows:~~

Schedule D

MISCELLANEOUS

1. Title insurer designated by the parties (§1.02):  
First American Title Insurance Company  
of New York; Attention: Spencer Compton
- ~~2. Last date for consent by Existing Mortgage(s) (§2.03(b)).~~
3. Maximum Interest Rate of any Refinanced Mortgage (§2.04(b)):
4. Prepayment Date on or after which Purchase Money Mortgage may be prepaid (§2.04(a)):
5. Seller's tax identification number (§2.05):  
13-4077996
6. Purchaser's tax identification number (§2.05):
- ~~7. Scheduled time and date of Closing (§3.01):~~
8. Place of Closing (§3.01):
9. Assessed valuation of Premises (§4.10):  
Actual Assessment:  
Transition Assessment:
10. Fiscal year and annual real estate taxes on Premises (§4.10):
11. Tax abatements or exemptions affecting Premises (§4.10):
- ~~12. Assessments on Premises (§4.13):~~
13. Maximum Amount which Seller must spend to cure violations, etc. (§7.02): [See Rider]
14. Maximum Expense of Seller to cure title defects, etc. (§13.02): \$0.00
15. Broker, if any (§14.01):  
Massey Knakal Realty Services, and  
Hack Real Estate Associates
16. Party to pay broker's commission (§14.01):  
Seller
17. Address for notices (§15.01):  
If to Seller: Saint Vincents Catholic Medical  
Centers of New York, 170 West 12th Street,  
New York, New York 10011  
  
with a copy to Seller's attorney:  
  
**8B**  
  
If to Purchaser: Kinchung Lam  
c/o Hack Real Estate Associates  
224-19 Union Turnpike  
Oakland Gardens, New York 11364  
with a copy to Purchaser's attorney:  
  
**8C**
18. Limitation Date for actions based on Seller's surviving representations and other obligations (§16.01):  
Closing Date
19. Additional Schedules or Riders (§17.08):  
See One (1) Rider Attached Hereto

Purchase Price

\$12,500,000.00

Schedule E

RENT SCHEDULE

(to be attached separately)

**RIDER TO CONTRACT OF SALE ("AGREEMENT") DATED  
AUGUST \_\_\_\_\_, 2005 BETWEEN SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF  
NEW YORK, AS SELLER, AND KINCHUNG LAM AS PURCHASER**

18. In the event of any conflict or inconsistency between the terms of this Rider and the terms of the pre-printed form of Agreement, the terms of this Rider shall govern and prevail.

19. (a) The closing of title to the Premises (the "Closing") shall take place at the offices of Seller's counsel, Donovan & Giannuzzi, LLP, 261 Madison Avenue, 22<sup>nd</sup> Floor, New York, New York, at 11:00 A.M., on the date which is thirty (30) days after the date upon which Seller shall provide written notice to Purchaser (the "Approval Notice") that Seller has obtained all of the Required Approvals (hereinafter defined) (such date, the "Scheduled Closing Date").

(b) Purchaser shall have the right to adjourn the Closing for up to an additional five (5) business days from the Scheduled Closing Date; provided, however, that Purchaser shall be obligated to close title to the Premises, in accordance with the terms and conditions of this Agreement, on or before close of business on the date which is the fifth (5th) business day following the Scheduled Closing Date, at 10:00 a.m. (the "Outside Closing Date"), TIME BEING OF THE ESSENCE with respect to Purchaser's obligations hereunder. The date on which the Closing shall occur shall be referred to herein as the "Closing Date".

(c) Notwithstanding anything to the contrary contained herein, if Purchaser shall finance any portion of the Purchase Price, and if Purchaser's lender shall so require, the Closing shall occur, on or before the Outside Closing Date, at the offices of Purchaser's lending institution or its counsel in New York City. Notwithstanding the foregoing or anything to the contrary contained herein, this Agreement shall not be contingent upon Purchaser obtaining financing for the purchase of the Premises, and Purchaser shall be obligated to close title to the Premises on or before the Outside Closing Date, TIME BEING OF THE ESSENCE with respect to Purchaser's obligations, whether or not Purchaser shall have obtained financing for the Premises.

20. (i) Seller's obligations under this Agreement shall be subject to, and expressly conditioned upon, Seller's ability to obtain all of the following approvals necessary to effectuate this transaction (collectively, the "Required Approvals"):

- (a) Church / Board of Director Approvals: All required approvals from the Roman Catholic Church, or any subsidiary or affiliate thereof (including a papal indult, if required), or from any other authority within the Roman Catholic Church or the other governing bodies controlling Seller, and from Seller's Board of Directors, with respect to the sale of the Premises and the consummation of the transactions contemplated hereunder;
- (b) Lien Holder Approvals: Approval of all lien holders of Seller to the consummation of the transactions contemplated hereunder, and to the release of the Premises from any existing liens, to the extent such approval is required;
- (c) Bankruptcy Court Approval: Approval by the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court") in the case entitled *In Re Saint Vincents Catholic Medical Centers of New York d/b/a/ Saint Vincents Catholic Medical Centers et. al.* (Case No. 05-14645-PCB) in accordance with Paragraph 21 hereinbelow.
- (d) Governmental Approvals: All required approvals from the New York State Department of Health and any other applicable governmental agencies to the consummation of the transactions contemplated hereunder, to the extent such approval is required.

(ii) Seller shall use reasonable, diligent and good faith efforts to obtain all of the Required Approvals as soon as reasonably possible after the date hereof. Seller shall keep Purchaser apprised of Seller's progress in obtaining the Required Approvals, upon the written request of Purchaser. Seller shall deliver the Approval Notice to Purchaser promptly after obtaining the last of the Required Approvals. If Seller, despite reasonable and good faith efforts, shall be unable to obtain all of the Required Approvals within one hundred eighty (180) days after the date of this Agreement, or if Seller's application for any of the Required Approvals shall be finally and unequivocally denied, or if the Premises shall be ordered to be sold to another bidder by the Bankruptcy Court pursuant to

Paragraph 21 hereof, then either party shall be permitted to terminate this Agreement by written notice to the other party hereto sent at any time thereafter (such notice, the "Required Approvals Cancellation Notice"), whereupon this Agreement shall become null and void AB INITIO, and the Downpayment, together with all interest thereon, shall be refunded to Purchaser, and Seller shall reimburse Purchaser for Purchaser's cost of title examination and of preparing or updating a survey.

21. This Agreement is contingent upon Seller obtaining order(s) of the Bankruptcy Court in a form that is satisfactory to Seller, which among other things (1) establishes bidding procedures for an auction of the Premises, (2) authorizes Seller to sell the Premises to the Purchaser on the terms contained in this Agreement, or such higher and better terms and conditions offered at the auction (and authorizes the execution and delivery of the Lease, and the performance by Seller thereunder), (3) finding that Purchaser is a good faith purchaser of the Premises under Section 363(m) of title 11 of the United States Code (the "Bankruptcy Code"), (4) providing that the sale of the Premises to Purchaser shall be free and clear of all liens, claims, interests, obligations, and encumbrances under Section 363 of the Bankruptcy Code, and (5) authorizing Seller to execute, deliver, perform under, consummate and implement this Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the foregoing. Seller shall promptly apply to the Bankruptcy Court for such orders and shall use reasonable and good faith efforts to seek to obtain same.

22. Purchaser acknowledges that it has made such examination of the Premises, the operation, income and expenses of the Premises, and such other matters affecting or relating to this transaction as Purchaser deems necessary. In entering into this Agreement, Purchaser has not been induced by, and has not relied upon, any representations, warranties or statements, whether oral or written, express or implied, made by Seller or by any agent, employee or other representative of Seller, or by any broker, attorney or other person representing or purporting to represent Seller, which are not expressly set forth in this Agreement. Purchaser acknowledges and agrees that, except as otherwise specifically set forth in this Agreement, Seller has not made, and does not make, any representation or warranty, and Seller shall have no liability or obligation with respect to any matter relating to the Premises or this transaction, including, without limitation (i) income, expenses, operation, income-producing potential, zoning, physical condition, gross and rentable square footage of the improvements, access, merchantability, soil or the lie and topography, of any portion of the Premises; (ii) violations; (iii) any patent or latent defect in or about the Premises, or in any of the improvements; (iv) the presence or absence of asbestos, asbestos-containing materials or any hazardous substances or wastes in, under or upon the Premises; and (v) any and all other matters with respect to the Premises. Purchaser shall accept the Premises "as is" "where is" on the Closing Date, reasonable use, wear and tear and natural deterioration excepted.

23. In addition to the matters set forth herein, at the Closing, Seller and Purchaser shall execute and/or deliver the following:

- (i) the real property transfer tax returns required to be executed by Purchaser and Seller;
- (ii) resolutions of Seller's board of directors, together with true copies of any and all consents and resolutions required to consummate the transactions contemplated hereby, certified to be true and complete by an authorized officer of Seller, including reasonable proof of the Required Approvals;
- (iii) such affidavits and agreements as shall reasonably be required by the title company to consummate this transaction;
- (iv) all other documents and instruments required by this Agreement to be delivered by Purchaser and Seller at Closing; and
- (v) the Lease duly executed by Seller and Purchaser, and any documents ancillary thereto.

24. Except as expressly provided to the contrary herein, the customs in respect of title closings recommended by the Real Estate Board of New York, Inc. shall apply to the apportionments to be made at the Closing.

25. (a) All New York City Real Property Transfer Taxes payable in connection with the transfer of the Premises to Purchaser (if any) shall be paid by Seller at the Closing.

(b) All New York State Real Property Transfer Taxes payable in connection with the sale and transfer of the Premises to Purchaser shall be paid by Purchaser, and shall not be credited against the Purchase Price.

(c) All State, City, County and municipal recording charges shall be paid by Purchaser at the Closing.

26. The Premises are sold and are to be purchased subject to the following:

(a) All covenants, easements, reservations and restrictions of record affecting the Premises, provided same do not render title uninsurable at regular rates, without payment of additional premiums, and provided same are not violated by existing structures;

(b) Any and all present and future laws, regulations, restrictions, requirements, ordinances, resolutions and orders affecting the Premises, including, without limitation, any laws relating to zoning, building, environmental protection and the use and occupancy of the Premises;

(c) Real estate taxes that are a lien, but are not yet due and payable, subject to adjustment at Closing;

(d) Sidewalk notices and sidewalk violations, if any;

(e) Boiler Violations, if any;

(f) Party wall agreements, if any;

(g) Street Vaults and Coal Chutes or Vaults, if any;

(h) Encroachments of the Premises upon adjoining property and streets, and encroachments of adjoining property or improvements upon the Premises, provided that title to the Premises shall be insurable at regular rates without the payment of additional premiums;

(i) Grants made prior to the date hereof of licenses or easements or other rights in favor of any public or private utility company or governmental entity for, or pertaining to, utilities, sewers, water mains or drainage, whether or not of record, provided same do not render title to the Premises uninsurable at regular rates without the payment of additional premiums, do not impose a material financial obligation on the Purchaser and do not materially interfere with the use of the existing improvements located at the Premises as of the date hereof;

The permitted exceptions set forth in this Paragraph 26 (collectively, the "Permitted Exceptions") set forth herein shall not constitute grounds for objection by Purchaser, and Seller shall have no obligation to remove any permitted exception as a condition to Purchaser's obligation to purchase the Premises in accordance with this Agreement.

27. (a) Seller shall not be responsible for removing, curing, complying with or otherwise correcting any notes or notices of violations of law or governmental ordinances, orders or requirements noted or issued against the Premises by any governmental department, agency or bureau having jurisdiction as to conditions affecting the Premises as of the date hereof and/or as of the Closing Date (collectively, the "Violations"), and Purchaser shall accept title to the Premises subject to any and all Violations, without abatement of the Purchase Price by reason thereof. Notwithstanding the foregoing or anything to the contrary contained herein, Purchaser shall receive a credit against the Purchase Price at Closing in an amount equal to all monetary liens, fines, interest and penalties in liquidated amounts arising out of the Violations noted or issued against the Premises on or before the date hereof which are liens against the Premises ("Administrative Liens"), and Purchaser shall accept title to the Premises subject to any and all Administrative Liens, and Purchaser shall assume responsibility for the payment of all Administrative Liens at the Closing.

(b) Notwithstanding anything to the contrary contained herein, nothing contained in this Agreement shall be construed to require Seller to bring any action or otherwise incur any expense to render title to the Premises in accordance with the provisions of this Agreement.

28. Except as otherwise expressly set forth herein, neither this Agreement nor any of the rights of Purchaser hereunder may be assigned or transferred by Purchaser without Seller's prior written consent, and any purported assignment or encumbrance without Seller's prior written consent shall

be null and void, and shall constitute a default hereunder, which is not capable of being cured. Notwithstanding the foregoing, Purchaser shall be permitted to assign this Agreement to a corporation, partnership, limited liability company, trust or other entity of which Kinchung Lam, or members of John Lam's immediate family, or trusts for their benefit, shall have an aggregate, record or beneficial ownership interest of fifty (50%) percent or more; provided, however, that (i) such assignment shall be in writing; (ii) Purchaser's obligations under this Agreement shall be assumed in writing by the proposed assignee; and (iii) an original counterpart of the assignment and assumption agreement(s) shall be delivered to Seller at least five (5) days prior to the Closing Date.

29. All understandings and agreements heretofore had between Seller and Purchaser are merged in this Agreement, which alone completely expresses their agreement, and this Agreement is entered into after full investigation, neither party relying upon any statement or representation made by the other and not embodied in this Agreement.

30. Purchaser's acceptance of the deed to the Premises shall be deemed an acknowledgment by Purchaser that Seller has fully complied with all of its obligations hereunder; that Seller is discharged therefrom (or Purchaser has waived compliance therewith); and that Seller shall have no further obligation or liability with respect to any of the agreements, representations and/or warranties made by Seller in this Agreement, which shall be merged with the deed to the Premises, except for those provisions of this Agreement which expressly provide that any obligation of Seller shall survive the Closing. Except as otherwise expressly stated herein, none of the representations and warranties herein shall survive Closing.

31. Purchaser reserves the right to include this transaction as part of one (1) or more Internal Revenue Code Section 1031 tax deferred exchange transactions, including a reverse exchange, at no out-of-pocket cost, expense or liability to Seller. Seller agrees to cooperate with Purchaser, and to execute any and all documents as are reasonably necessary in connection therewith, provided that the closing of the transaction for the conveyance of the Premises shall not be contingent upon, and shall not be subject to, the completion of such exchange, nor shall such affect the Closing Date hereunder.

32. Seller agrees to cooperate with Purchaser, post-Closing, to deliver originals or copies of documents or instruments relating to the Premises which were not delivered to Purchaser at the Closing, to the extent the same are in Seller's possession, at no out-of-pocket cost to Seller (other than de minimis copying costs). This obligation shall survive the Closing.

33. Purchaser acknowledges that the transfer documents with respect to the Premises might prohibit Purchaser or any future owner of the Premises from developing, using or occupying same for purposes which are considered obscene, immoral or repugnant by or to the Roman Catholic Church, including without limitation, as an abortion clinic, Planned Parenthood center, topless bar, sex club or adult entertainment facility for a period of five (5) years after the date of Closing, and Purchaser covenants and agrees to accept and comply with such restrictions. This restriction shall run with the land and be binding upon future owners of the Premises.

34. Purchaser shall not be permitted to record this Agreement.

35. Seller covenants and agrees to provide Purchaser with the (i) building plans (to the extent the same are in Seller's possession); (ii) appraisal currently being prepared and/or updated; and (iii) phase-I environmental inspection with respect to the Premises, on or prior to September 12, 2005, or as soon thereafter as is reasonably possible. Purchaser shall accept the Premises subject to the findings contained in the foregoing without credit or abatement against the Purchase Price and without any representation or warranty whatsoever with respect thereto.

36. THE PARTIES HERETO WAIVE TRIAL BY JURY IN CONNECTION WITH ANY AND ALL MATTERS ARISING OUT OF THIS AGREEMENT.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the year and date above written.

SELLER:

SAINT VINCENTS CATHOLIC MEDICAL  
CENTERS OF NEW YORK

By: Elizabeth S. Clair  
Name: Elizabeth S. Clair  
Title: Senior Vice President

PURCHASER:

Kin Chung Lam  
KINCHUNG LAM

SCHEDULE G

CERTIFICATE OF OCCUPANCY

DEPARTMENT OF BUILDINGS

BOROUGH OF QUEENS, THE CITY OF NEW YORK

No. Q 144836  
Date 7/3/62

CERTIFICATE OF OCCUPANCY

and form adopted by the Board of Standards and Appeals and issued pursuant to Section 246 of the Charter and Sections C-26-181.0 to C-26-187.0 inclusive Administrative Code 2.1.1.1, to 2.1.3.7 (Code.)

This certificate supersedes C. O. No. \_\_\_\_\_

Owner or owners of the building or premises \_\_\_\_\_

THIS CERTIFIES that the new ~~EXISTING~~ building premises located at

153rd St., RES 89th Ave. Block 662 Lot 1

is substantially in accordance with the approved plans and specifications and to the requirements of the building code and all other laws and ordinances, and of the rules and regulations of the Board of Standards and Appeals applicable to a building of its class and kind at the time the permit was issued, and CERTIFIES FURTHER that any provisions of Section 246B of the New York Charter have been withdrawn as certified by a report of the Fire Commissioner to the Borough Superintendent.

Permit No. RD 572/61

Construction classification Non-Fire

Use classification RES.

Height 6 stories 65'-7 1/2" feet

Completion \_\_\_\_\_

Located in RES. Use District \_\_\_\_\_

Code Area 14 Height Zone at time of issuance of permit \_\_\_\_\_

This certificate is issued subject to the limitations hereinafter specified and to the following regulations of the Board of Standards and Appeals: (Circle number of the section here)

PERMISSIBLE USE AND OCCUPANCY TABLES

FLOOR	LIVE LOADS (lbs. per sq. ft.)	PEOPLE ACCOMMODATED			USE
		MALE	FEMALE	TOTAL	
1st	40			1	Jan. Apt., (Multiple Dwelling "A") 4 Dr's Offices, Incinerator, Storage room, Laundry room, Carriage room, Locker room
2nd to 6th	40			16 each floor	Multiple Dwelling "A" The above use for a temporary period of 90 days only

*J. Henry Szymanski*  
Borough Superintendent

CERTIFICATE WILL BE NULL AND VOID IF ALTERED IN ANY MANNER OR ADDITIONS ARE MADE THERETO.

(Page 1)

**NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE  
BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT**

Unless an approval for the same has been obtained from the Borough Superintendent, no rearrangement in the structural parts of the building, or affecting the light and ventilation of any part or in the exit facilities, shall be made; no enlargement, whether by extending on any side or by increase in height shall be made; nor shall the building be moved from the location or position to another use, nor be any reduction or diminution of the area of the lot or plot on which the building is located.

The building in any part thereof shall not be used for any purpose other than that for which it is constructed.

The superimposed, uniformly distributed loads, or concentrated loads, producing the same stress, construction in any story shall not exceed the live loads specified on reverse side; the number of persons, sex in any story shall not exceed that specified when sex is indicated, nor shall the aggregate number of persons in any story exceed the specified total and the use to which any story may be put shall be restricted to that by this certificate except as specifically stated.

This certificate does not in any way relieve the owner or owners or any other person or persons in or control of the building, or any part thereof from obtaining such other permits, licenses or approvals as are prescribed by law for the uses or purposes for which the building is designed or intended; nor from the special certificates required for the use and operation of elevators; nor from the installation of fire systems where required by law; nor from complying with any lawful order for additional fire extinguishers issued under the discretionary powers of the fire commissioner; nor from complying with any lawful order issued with the object of maintaining the building in a safe or lawful condition; nor from complying with any authorized direction to remove encroachments into a public highway or other public place, whether any or part of the building or not.

If this certificate is marked "Temporary" it is applicable only to those parts of the building shown on its face, and certifies to the legal use and occupancy of only such parts of the building; it is subject to the provisions and conditions applying to a final or permanent certificate; it is not applicable to any building in the jurisdiction of the Housing Division unless it is also approved and endorsed by them, and it must be renewed by a full certificate at the date of expiration.

If this certificate is for an existing building, erected prior to March 14, 1916, it has been duly used and it has been found to have been occupied or arranged to be occupied prior to March 14, 1916, as shown on the reverse side, and that on information and belief since that date there has been no alteration or change in its use that changed its classification as defined in the Building Code, or that would necessitate compliance with some special requirements under the State Labor Law or any other law or ordinance; that there are no violations or orders pending in the Department of Buildings at this time; that Section 646F of the New York Charter has been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent and that, so long as the building is not altered, except by permission of the Borough Superintendent, the use and occupancy may be continued.

§ 646 F. No certificate of occupancy shall be issued for any building, structure, enclosure, or premises wherein containers for combustibles, chemicals, explosives, inflammables and other dangerous articles, compounds or mixtures are stored, or wherein automatic or other fire alarm systems or fire extinguishing equipment are required by law to be or are installed, until the fire commissioner has tested and inspected, and certified his approval in writing of the installation of such containers, systems or equipment to the Superintendent of the borough in which the installation has been made. Such approval shall be a condition of the certificate of occupancy.

Additional copies of this certificate will be furnished to persons having an interest in the building or premises upon payment of a fee of fifty cents per copy.

DEPARTMENT OF BUILDINGS

BOROUGH OF QUEENS, THE CITY OF NEW YORK

No. 145573  
Date 5/22/62

CERTIFICATE OF OCCUPANCY

(Standard form adopted by the Board of Standards and Appeals and issued pursuant to Section 646 of the New York Charter, and Sections C-26-181.0 to C-26-187.0 inclusive Administrative Code 2.13.1 to 2.13.7 Building Code.)

This certificate supersedes C. O. No.

to the owner or owners of the building or premises:

THIS CERTIFIES that the new—~~altered~~—~~existing~~—building—premises located at

88-25 153rd. St., N.E. Cor. 89th. Ave. Block 0962 Lot 1

conforms substantially to the approved plans and specifications, and to the requirements of the building code and all other laws and ordinances, and of the rules and regulations of the Board of Standards and Appeals, applicable to a building of its class and kind at the time the permit was issued; and CERTIFIES FURTHER that any provisions of Section 6-16P of the New York Charter have been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent.

B. or Alt. No. ~~XXXX~~ N.B. 572/61 Construction classification— Non-fire  
Occupancy classification— Res. Height 6 stories Use District 59  
Date of completion— 5/17/62 Located in 6 Use District  
Area 14 Height Zone at time of issuance of permit

This certificate is issued subject to the limitations hereinafter specified and to the following resolutions of the Board of Standards and Appeals: (Check numbers to be inserted here)

PERMISSIBLE USE AND OCCUPANCY

STORY	LIVE LOADS (lbs. per sq. ft.)	PERSONS ACCOMMODATED		USE
		MALE	FEMALE	
Cellar	On gr.		1	Janitor's Apt., 4 Doctors' offices, 2 Incinerator rms., Storage, Laundry, Carriage, Tank, Water rms., 2 Janitor's closets, Lobby, Mail rm., Locker rm., 32 car garage.
1	40		16	Multiple Dwelling "A"
2	40		16	Multiple Dwelling "A"
3	40		16	Multiple Dwelling "A"
4	40		16	Multiple Dwelling "A"
5	40		16	Multiple Dwelling "A"
6	40		16	Multiple Dwelling "A"

Fire Dept. Certification  
4/10/62.

THIS CERTIFICATE SHALL NOT BE CONSIDERED A CERTIFICATE  
OF COMPLIANCE OR GUARANTEE UNDER SECTION 601 OF THE  
MULTIPLE DWELLING LAW.

*W. Lewis Sigman*  
Borough Superintendent

DEPARTMENT OF BUILDINGS

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

NO CHANGES OF USE OR OCCUPANCY NOT CONSISTENT WITH THIS CERTIFICATE SHALL BE MADE UNLESS FIRST APPROVED BY THE BOROUGH SUPERINTENDENT

Unless an approval for the same has been obtained from the Borough Superintendent, no change or rearrangement in the structural parts of the building, or affecting the light and ventilation of any part thereof or in the exit facilities, shall be made; no enlargement, whether by extending on any side or by increasing height shall be made; nor shall the building be moved from one location or position to another; nor shall there be any reduction or diminution of the area of the lot or plot on which the building is located.

The building or any part thereof shall not be used for any purpose other than that for which it is certified.

The superimposed, uniformly distributed loads, or concentrated loads producing the same stresses in construction in any story shall not exceed the live loads specified on reverse side; the number of persons of all sex in any story shall not exceed that specified when sex is indicated, nor shall the aggregate number of persons in any story exceed the specified total; and the use to which any story may be put shall be restricted to that specified by this certificate except as specifically stated.

This certificate does not in any way relieve the owner or owners or any other person or persons in possession or control of the building, or any part thereof from obtaining such other permits, licenses or approvals as may be prescribed by law for the use or purposes for which the building is designed or intended; nor from obtaining the special certificates required for the use and operation of elevators, nor from the installation of fire alarm systems where required by law; nor from complying with any lawful order for additional fire extinguishing appliances under the discretionary powers of the fire commissioner; nor from complying with any lawful order issued with the object of maintaining the building in a safe or lawful condition; nor from complying with any authorized direction to remove encroachments into a public highway or other public place, whether attached to or part of the building or not.

If this certificate is marked "Temporary" it is applicable only to those parts of the building indicated on its face, and certifies to the legal use and occupancy of only such parts of the building; it is subject to all provisions and conditions applying to a final or permanent certificate; it is not applicable to any building under jurisdiction of the Housing Division unless it is also approved and endorsed by them, and it must be replaced by a full certificate at the date of expiration.

If this certificate is for an existing building, erected prior to March 14, 1916, it has been duly inspected and it has been found to have been occupied or arranged to be occupied prior to March 14, 1916, as noted on the reverse side, and that on information and belief, since that date there has been no alteration or conversion to a use that changed its classification as defined in the Building Code, or that would necessitate compliance with some special requirement or with the State Labor Law or any other law or ordinance; that there are no violations or orders pending in the Department of Buildings at this time; that Section 646F of the New York Charter has been complied with as certified by a report of the Fire Commissioner to the Borough Superintendent and that, so long as the building is not altered, except by permission of the Borough Superintendent, the use and occupancy may be continued.

§ 646 F. No certificate of occupancy shall be issued for any building, structure, enclosure, premises wherein containers for combustibles, chemicals, explosives, inflammables and other dangerous substances, compounds or mixtures are stored, or wherein automatic or other fire alarm systems or fire extinguishing equipment are required by law to be or are installed, until the fire commissioner has tested and inspected and certified his approval in writing of the installation of such containers, systems or equipment to the Superintendent of the borough in which the installation has been made. Such approval shall be recorded on the certificate of occupancy.

Additional copies of this certificate will be furnished to persons having an interest in the building or premises upon payment of a fee of fifty cents per copy.

SCHEDULE H

LEASE

See Attached.

INSERTS TO FORM LEASE

- 1A. the uses permitted under Article 44 of the Rider (the "Permitted Use").
- 1B. , not to be unreasonably withheld.
- 1C. , at Tenant's sole and absolute discretion,
- 1D. , hospital fixtures, medical fixtures and equipment, business equipment, office equipment, computer equipment, office furniture and furnishings, closed circuit televisions air handling units, HVAC units, apparatus and the other personal property of Tenant (collectively, "Tenant's Property").
- 1E. Tenant may attach and affix trade fixtures to the Demised Premises, and all of Tenant's trade fixtures, even though so attached and affixed, may be freely removed by Tenant at any time during the term of this Lease or upon the expiration thereof (Tenant shall not be responsible for the removal and carting of any debris caused by such removal); provided, Tenant shall not be required to remove or restore any alterations or installations made by Tenant unless Owner's consent was required to perform such alterations or installations in the first instance and, at the time Owner granted such consent, Owner notified Tenant that such alterations or installations would be required to be removed or restored at the expiration of the term.
- 1F. (excluding the sidewalks in front of or adjacent to the Demised Premises, which shall be of the responsibility of Owner)
- 1G. , for any reason whatsoever.
- 2A. This Lease is not subject and/or subordinate to any ground lease, underlying lease or mortgage now or hereafter affecting the Building and this Lease shall be deemed senior and superior thereto, unless Owner's lender shall deliver a subordination, non-disturbance and attornment agreement to Tenant in a usual and customary form which is reasonably acceptable to Tenant. Tenant agrees to cooperate with Owner and Owner's lender in connection with any financing obtained by Owner to be secured by the Building. Tenant agrees to execute such documents as shall reasonably be required by Owner's lender providing such financing, provided that same shall not materially and/or adversely affect the rights of tenant or in any way subordinate this Lease to the lien of any financing, ground or underlying leases.
- 2B. or willful misconduct
- 2C. , unless caused by or due to the negligence or willful misconduct of Owner, its agents, servants or employees.
- 2D. or inaccessible
- 2E. Tenant's Property,
- 2F. ; provided, however, that no consent of Owner shall be required in connection with the merger, consolidation or transfer of stock involving Tenant if same relates to substantially all of Tenant's property and assets in New York City.
- 2G. upon reasonable notice to Tenant (except for emergencies) and under the supervision of Tenant
- 2H. Notwithstanding the foregoing, Owner shall only be permitted to make non-emergency replacements or alterations, upon consent of Tenant, which consent Tenant shall grant or withhold in Tenant's sole discretion. Owner agrees that while exercising such right of entry or making such repairs, replacements or

improvements, it shall use its best efforts to avoid disrupting or interfering with Tenant's conduct of its business at and from the Demised Premises, unless required by law and unless such legal requirements can only be accomplished in a manner which requires such a reduction of the Demised Premises). Further, in no event shall Owner make any repairs, replacements or alterations in such a manner as to result in a reduction of the useable area of the Demised Premises. In addition to the foregoing, Owner, at its own cost and expense, will repair and replace any and all damage or injury to the Demised Premises or Tenant's Property caused by Owner or Owner's agents, contractors and/or subcontractors.

- 2I. and upon reasonable notice to Tenant
- 2J. in an emergency
- 2K. Notwithstanding the foregoing, in no event, and under no circumstance shall Owner have access to any areas in the Demised Premises in which Tenant stores medicine, patient charts, confidential patient information or other restricted areas without a representative of Tenant being present.
- 3A. Notwithstanding the foregoing, Owner acknowledges that Tenant's current use, and manner of use, of the Premises, is in compliance with this Article 15.
- 3B. (other than as provided for herein)
- 3C. thirty (30)
- 3D. at which time this Lease shall be deemed terminated and the parties rights and obligations with respect hereto shall be deemed terminated and of no further force and/or effect
- 4A. , or recognized overnight courier service,
- 4B. A copy of all notices to Tenant shall simultaneously be sent to Tenant's counsel, Donovan & Giannuzzi, LLP, 261 Madison Avenue, 22<sup>nd</sup> Floor, New York, New York 10016, Attn: Nicholas T. Donovan, Esq.
- 4C. , at Owner's expense





building. All vault 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 abatement of rent, nor shall such revocation, diminution or requisition be deemed reconstructive or actual eviction. Any tax, fee or charge of municipal authorities for such vault or area shall be paid by Tenant.

**Occupancy:** 15. Tenant will not at any time use or occupy the demised premises in violation of Articles 2 or 37 hereof, or of the certificate of occupancy issued for the building of which the demised premises are a part. Tenant has inspected the premises and accept them as is, subject to the riders annexed herein with respect to Owner's work. If 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. Notwithstanding this lease may be cancelled by Landlord 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 treating 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 owing 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 purchase of any part thereof be let 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 re-letting 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

**Default:** 17. (1) If Tenant defaults in fulfilling any of the covenants of this lease other than the covenants for 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 Section 363 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 thirty (30) days after the commencement of the term of this lease, of which fact Owner shall be the sole judge; then, in any one or more of such events, upon Owner serving a written notice of such default upon Tenant specifying the nature of said default and upon the expiration of said fifteen (15) 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 fifteen (15) day period, and if Tenant shall not have diligently commenced curing such default within such fifteen (15) day period, and shall not thereafter with reasonable diligence and in good faith proceeded in remedy in cure such default, then Owner may serve a written five (5) days notice of cancellation of this lease upon Tenant, and upon the expiration of said five (5) days, this lease and the term hereunder shall end and expire as fully and completely as if the expiration of such five (5) 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.

**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, shall become due hereupon 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 rent 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 subsequent 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 affect 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, reasonable 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 term day specified in this lease. Owner, in putting the demised premises in good order or preparing the same for re-letting may, at Owner's option, make such alterations, repairs, replacements, and/or decorations in the demised premises as Owner, in Owner's sole judgment, 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. 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 rent collected over the sums payable by Tenant to Owner hereunder. In the event of a breach or threatened breach by Tenant or any of the covenants in provisions hereof, Owner shall have the right of inspection and the right to make any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Remedies 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.

**Fees and Expenses:** 19. If Tenant shall default in the observance or performance of any term or covenant in 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, after notice if required and upon expiration of any applicable grace period if any, (except in an emergency, then, unless otherwise provided elsewhere in this lease, Owner may immediately or at any time thereafter and without notice perform the obligation of Tenant hereunder, and if Owner, in connection therewith 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 reasonable attorney's fees, in instituting, prosecuting or defending any actions or proceedings and prevails in any such action or proceeding, such sums so paid or obligations incurred with interest and costs shall be deemed to be additional rent hereunder and shall be paid by Tenant to Owner within ten (10) days of rendition of any bill or statement to Tenant therefor, and 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.

**No Representations by Owner:** 20. Neither Owner nor Owner's agent have made any representations or physical condition of the building, the land upon which it is erected or the demised premises, the terms, leases, easements or other matter of 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 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 agreements heretofore made shall be ineffective to change, modify, discharge or affect in any way or 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:** 21. Upon the expiration or other termination of the term of this lease, Tenant shall quit and surrender to Owner the demised premises in ordinary wear excepted, and 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:** 22. 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 13 hereof and to the ground leases, underlying leases and mortgages hereinbefore mentioned.

**Delivery of Possession:** 23. If at the expiration or termination of the term of this lease, or if the premises are leased 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 way to extend the term of this lease, but the rent payable hereunder shall be abated provided Tenant is not responsible for the inability to obtain possession or complete construction and after Owner shall have given Tenant written notice that the Owner is able to deliver possession in the condition required by this lease. 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 possession and/or occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this lease, except the obligation to pay the rent.

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one of this lease. 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: 24. The failure of Owner to seek redress for violation, 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 hereinafter 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 and/or additional 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 deemed shall be deemed in 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 keys 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: 25. 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 herein against the other (except for personal injury to 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 proceeding or action for possession including a 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 4 except for statutory mandatory counterclaims.

Inability to Perform: 26. 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 if 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, fixtures or other materials if Owner is prevented or delayed from making by reason of strike or labor troubles, government prohibition or restrictions or by reason of any rule, order or regulation of any department or subdivision the roof of any government agency or by reason of the conditions of which have been or are affected, either directly or indirectly, by war or other emergency, or when, in the judgement of Owner, temporary interruption of such services is necessary by reason of accident, mechanical breakdown, or to make repairs, alterations or improvements.

Bill and Notices: 27. 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 the last known residence address or business address of Tenant or left at any of the address premises addresses 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 last heretofore given or at such other address as Owner shall designate by written notice.

Water Charges: 28. If Tenant is required to install a water meter for any purpose in addition to ordinary lavatory purposes (of which fact Tenant constitutes Owner to be the sole judge) Owner may install a water meter and thereby measure Tenant's water consumption for all purposes. Tenant shall pay to Owner for the cost of the meter and the cost of the installation thereof and throughout the duration of Tenant's occupancy Tenant shall keep said meter and installation equipment in good working order and repair at Tenant's own cost and expense. Tenant agrees to pay for water consumed, as shown on said meter as and when bills are rendered. Tenant covenants and agrees to pay the sewer rent, charge or any other tax, fee or charge which may or hereafter be assessed, imposed or levied on or against which may or hereafter be assessed, imposed or levied on or against the demised premises or the utility of which they are part pursuant to law, order or regulation made or issued in connection with the use, consumption, maintenance or supply of water, water system or sewage or sewerage connection or system. The bill rendered by Owner shall be payable by Tenant as additional rent. If the building or the demised premises or any part thereof be supplied with water through a meter through which water is also supplied to other premises Tenant shall pay to Owner as additional rent, on the first day of each month, \$ ( ) of the total meter charges, as Tenant's portion, independently of and in addition to any of the remedies reserved to Owner hereabove or elsewhere in this lease, Owner may sue for and collect any monies to be paid by Tenant if paid by Owner for any of the reasons or purposes hereinabove stated.

Sprinklers: 29. Anything elsewhere in this lease to the contrary notwithstanding, if the New York Board of Fire Underwriters or the Insurance Services Office in any bureau, department or official of the federal, state or city government require or recommend the installation of a sprinkler system or that any changes, modifications, alterations, or additional sprinkler heads or other equipment be made or supplied in an existing sprinkler system by reason of Tenant's business, or the location of partitions, trade fixtures, or other contents of the demised premises, or for any other reason, or if any such sprinkler system

Space to be filled in or deleted.

installations, changes, modifications, alterations, additional sprinkler heads or other such equipment, become necessary to prevent the imposition of a penalty or charge against the full advance for a sprinkler system in the fire insurance rate set by any said Exchange or by any fire insurance company, Tenant shall, at Tenant's expense, promptly make such sprinkler system installations, changes, modifications, alterations, and supply additional sprinkler heads or other equipment as required whether the work involved shall be structural or non-structural in nature. Tenant shall pay for the cost of such work on the first day of each month.

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Elevators, Heat, Cleaning: 30. ~~...~~

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Captions: 34. The Captions are intended only as a matter of convenience and for reference and in no way define, limit or describe the scope of this lease or the intent of any provision hereof.

Definitions: 35. The term "Owner" as used in this lease means only the Owner, or the mortgagee in possession, for the time being of the land and building for 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 land and building or of the said lease, 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 of 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 "tenant" and "rent" 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, Sundays and all days designated as holidays by the applicable building service union employees service contract or by the applicable Operating Engineers contract with respect to HVAC service. Wherever it is expressly provided in this lease that consent shall not be unreasonably withheld, such consent shall not be unreasonably delayed.

Adjacent Excavation: 36. 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 of 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 of rent.

Rules and Regulations: 37. Tenant and Tenant's servants, employees, agents, visitors, and licensees shall observe lawfully, 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

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parties hereto agree to submit the question of the reasonableness of such Rule or Regulations 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 litigate 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 fifteen (15) 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 held to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

**Glass:** 36. Owner shall replace, at the expense of Tenant, any and all plate and other glass damaged or broken from any cause whatsoever in and about the demised premises. Owner may insure, and keep insured, at Tenant's expense, all plate and other glass in the demised premises for and in the name of Owner. Bills for the premiums therefor shall be rendered by Owner to Tenant at such times as Owner may elect, and shall be due from, and payable by, Tenant when rendered, and the amount thereof shall be deemed to be, and be paid as, additional rent.

**Pornographic Uses Prohibited:** 37. Tenant agrees that the value of the demised premises and the reputation of the Owner will be seriously injured if the premises are used for any obscene or pornographic purposes or any sort of commercial sex establishment. Tenant agrees that Tenant will not bring or permit any obscene or pornographic material on the premises, and shall not permit or conduct any obscene, nude, or semi-nude live performances on the premises, nor permit use of the premises for nude modeling, tap sessions, or as a so called rubber goods shops, or as a sex club of any sort, or as a "massage parlor." Tenant agrees further that Tenant will not permit any of these uses by any sublessee or assignee of the premises. This Article

shall directly bind any successors in interest in the Tenant. Tenant agrees that if at any time Tenant violates any of the provisions of this Article, such violation shall be deemed a breach of a substantial obligation of the terms of this lease and objectionable conduct. Pornographic material is defined for purposes of this Article as any written or pictorial matter with prurient appeal or any objects of instrument that are primarily concerned with lewd or purified sexual activity. Obscene material is defined here as it is in Penal law §235.00.

**Estoppel Certificate:** 38. 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 which the rent and additional rent have been paid, and stating whether or not there exists any defaults by Owner under this lease, and, if so, specifying each such default.

**Successors and Assigns:** 39. 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. Tenant shall look only to Owner's estate and interest in the land and building for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) against Owner in the event of any default by Owner hereunder, and no other property or assets of such Owner (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 Owner and Tenant hereunder, or Tenant's use and occupancy of the demised premises.

The Witness Whereof, Owner and Tenant have respectively signed and sealed this lease as of the day and year first above written.

Witness for Owner:

KIMCHUNG LAM

Witness for Tenant:

Saint Vincents Catholic Medical Center of New York

By:

Name:

Title:

ACKNOWLEDGEMENTS

CORPORATE OWNER  
STATE OF NEW YORK, ss.:  
County of

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 OWNER; that he knows the seal of said corporation; 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.

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; 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

INDIVIDUAL TENANT  
STATE OF NEW YORK, ss.:  
County of

On this day of 19 before me personally came to be 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.

On this day of 19 before me personally came to be 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.

RIDER TO STANDARD FORM OF LEASE,  
DATED AS OF \_\_\_\_\_, 2005  
BY AND BETWEEN  
KINCHUNG LAM, AS OWNER, AND  
SAINT VINCENTS CATHOLIC MEDICAL CENTERS OF NEW YORK, AS TENANT

41. RIDER PROVISIONS PREVAIL. The Rider provisions of this Lease shall be read in conjunction with the printed Standard Form of Lease annexed hereto. If there shall be any inconsistency or ambiguity between the provisions of this Rider and the Standard Form of Lease, then the provisions of this Rider shall prevail.

42. RENT; TERM

A. Throughout the term of this Lease, Tenant shall pay fixed monthly rent ("Rent") to Owner in the amount of Fifteen and 00/100 Dollars (\$15.00) per square foot per annum, which amount shall be payable in equal monthly installments, for the space actually used and/or occupied by Tenant which constitutes the Demised Premises (hereinafter defined). The initial Rent to be paid by Tenant shall be \$ \_\_\_\_\_ per annum, in equal monthly installments of \$ \_\_\_\_\_ per month, it being acknowledged that on the date hereof, Tenant is using \_\_\_\_\_ square feet of space, as shown on Exhibit A annexed hereto. The square footage determination on Exhibit A shall govern and prevail. The Rent paid by Tenant shall be a "gross rent", and Tenant shall not be obligated to pay any other items of rent or additional rent whatsoever in connection with Tenant's use and occupancy of the Demised Premises during the term of this Lease, except as specifically set forth herein.

B. As Tenant vacates the Demised Premises, as provided in Paragraph 43B below, Tenant shall deliver notice thereof to Owner and the Rent shall be recalculated and reduced monthly, on the first of each calendar month, based on the number of square feet which Tenant shall then be using and occupying in the Building.

C. All payments of Rent shall be made in full, in advance, on the first (1st) day of each calendar month during the term of this Lease (the "Term"), at the office of Owner or such other place as Owner may designate, without notice or any set-off or deduction whatsoever, except that Tenant shall pay the first monthly installment on the execution hereof. If the Commencement Date occurs on a day other than the first (1st) day of a calendar month, the fixed rent for such month shall be prorated on a per diem basis.

D. The term of this Lease shall commence on the date hereof and shall expire on the six (6) month anniversary of the date of this Lease (the "Expiration Date"); provided, however, that Tenant shall have the right to terminate this Lease at any time prior to the Expiration Date, for any or for no reason whatsoever, upon fourteen (14) days prior written notice to Landlord (the "Termination Notice"). The Termination Notice shall set forth the date on which this Lease shall terminate (the "Effective Date"). Upon the Effective Date set forth in the Termination Notice, the term of this Lease shall cease and expire, and each party's rights hereunder shall terminate, with the same force and effect as if such date were the date originally set forth in this Lease for the expiration of the Term, and Rent shall be paid through the Effective Date.

43. DEMISED PREMISES.

A. Owner hereby leases and demises to Tenant, and Tenant hereby leases from Owner, a portion of the Building designated as Block: 9767, Lot: 1 on the Queens County Tax Map, within which Tenant shall have continued use and occupancy of that portion of the Building as shown on Exhibit A annexed hereto (the "Demised Premises"). In addition, throughout the term of this Lease, Tenant shall be permitted to use the indoor parking facility located beneath the Building for parking for Tenant's employees, patients and visitors, on a rent-free basis.

B. Notwithstanding anything to the contrary contained herein, Tenant shall be permitted to partially vacate and surrender the Demised Premises to Landlord, on a unit by unit basis, throughout the term of this Lease. Once space has been vacated and surrendered by Tenant, such space shall not be deemed to constitute part of the Demised Premises, and the total square footage of the

Demised Premises shall be reduced by the square footage of the units being vacated and surrendered by Tenant. The Rent and Additional Rent shall be proportionally abated, on the first (1<sup>st</sup>) day of each calendar month, as and when the Tenant shall vacate and surrender portions of the Demised Premises pursuant to this Article.

44. TENANT'S USE OF DEMISED PREMISES

A. The Tenant may use and occupy the Demised Premises for general offices, medical offices and administrative offices, and otherwise substantially and materially in the same manner in which the Demised Premises are presently being used and occupied, subject to the limitations on use set forth herein. Tenant shall not use or occupy nor permit the Demised Premises or any part to be used for any unlawful business, use, or purpose, nor for any business, use or purpose deemed disreputable or extra-hazardous, nor for any purpose or in any manner which is in violation of any present or future governmental laws or regulations.

B. Tenant agrees that the value of the Demised Premises and the reputation of Owner will be seriously injured if the Demised Premises are used for any obscene or pornographic purposes, for any sort of commercial sex or sex related establishment, or for gambling or for any illegal activities. Tenant agrees that Tenant will not bring or permit any obscene or pornographic material on the Demised Premises, and shall not permit or conduct any obscene, nude or semi-nude live, videotape or filmed performances on the Demised Premises, nor permit use of the Demised Premises for nude modeling, rap sessions, or as a so-called rubber goods shop, or as a sex club of any sort, or as a "massage parlor" or topless or bottomless bar or club. Tenant further agrees not to allow any gambling, gaming, "numbers", "joker poker" or other illegal activities to be conducted at the Demised Premises in violation of law.

C. During the term of this Lease, Owner shall not perform any construction, work or demolition to any portion of the Building or the property on which the Building is located, that will obstruct or interfere in any respect with Tenant's use of the Demised Premises as the same is currently being used. This limitation includes any activity that will cause unreasonable noise or vibration within the Demised Premises.

45. INSURANCE

A. On or before the Commencement Date of this Lease, Tenant, at its sole cost and expense, agrees to provide, and to keep in full force and effect at all times during the term of this Lease for the benefit of Owner and Tenant, a comprehensive policy of general liability insurance protecting Owner, Owner's mortgagee, Tenant and any other parties as Owner shall reasonably designate to be added as insured parties, against any liability whatsoever occasioned on or about the Demised Premises, or any part thereof, including the sidewalks and curbs adjacent thereto. The policy shall be a comprehensive general liability type, with extended coverage to include personal injury liability and fire legal liability, with the amounts of liability thereunder (i) not less than \$1,000,000.00 in respect of any one person or of any one accident; (ii) not less than \$2,000,000.00 with respect to multiple person accidents; and (iii) not less than \$1,000,000.00 with respect to property damage, on an occurrence basis and not a claims basis. In addition, Tenant will, at Tenant's expense, maintain or cause to be maintained fire and extended coverage insurance (multiperil) covering the Demised Premises and any improvements and betterments therein against loss or damage by fire and by other risks now or hereafter embraced by "extended coverage" in an amount not less than the full replacement value thereof. Tenant shall be permitted to self-insure with respect to the plate glass for all windows and doors in or about the Demised Premises.

B. All policies required to be maintained hereunder shall be written by good and solvent insurance companies licensed to do business in the State of New York, having an A.M. Best rating of not less A VIII. 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 policy, Tenant shall deliver to Owner either a duplicate or original of the aforesaid policy, or a certificate containing an endorsement that such insurance may not be cancelled or modified except upon thirty (30) days written notice to Owner and Owner's mortgagee, together with evidence of the payment of the required premium(s). Failure by Tenant to keep in force the aforementioned insurance shall be regarded as a material default hereunder, entitling Owner to exercise any or all of the remedies provided in this Lease in the event of Tenant's default.

C. Each party hereby releases the other party hereto, and its trustees, employees, agents, officers and directors, from all liability (whether for negligence or otherwise), in connection with any loss covered by any fire and/or extended coverage insurance policies which the releasor carries with respect to the Demised Premises, or any interest or property therein or thereon (whether or not such insurance is required to be carried under this Lease), but only to the extent that such loss is collected under said policies. Such release is also conditioned upon the inclusion in the policy or policies of a provision whereby any such release shall not adversely affect the said policies, or prejudice any right of the releasor to recover thereunder. Each party agrees that its insurance policies will include such a provision so long as the party for whose benefit the clause or endorsement is obtained shall pay any extra cost attributable thereto. If extra cost shall be chargeable therefor, each party shall advise the other of the amount of the extra cost, and the other party, at its election, may pay the same, but shall not be obligated to do so.

#### 46. UTILITIES

A. Owner shall not be required to furnish any services whatsoever to Tenant other than as expressly provided for in this Lease. Owner acknowledges and agrees that Owner shall continue to supply electricity, hot and cold potable water, sewer service and sprinkler service to the Demised Premises, at the levels required by Tenant from time to time, but in no event less than currently required by Tenant, throughout the term of the Lease. In addition, Owner shall supply heat and air-conditioning to the Demised Premises during Tenant's normal business hours. Tenant will pay the amount of Three and 00/100 Dollars (\$3.00) per square foot, per annum, which shall be payable in twelve (12) monthly installments, for space actually used and/or occupied by Tenant per month, as additional Rent, which amount shall be for all gas, electricity, light, power, hot and cold water and other utilities and communications services used by Tenant ("Additional Rent").

B. As Tenant vacates the Demised Premises, Tenant shall deliver notice thereof to Owner and the Additional Rent shall be recalculated and reduced monthly, on the first of each month, based on the number of square feet which Tenant uses and/or occupies.

C. Owner reserves the right to stop service of the utility systems when necessary, by reason of accident or emergency, until said repairs shall have been completed. Owner shall have no responsibility or liability for interruption, curtailment or failure to supply heat, plumbing or electricity when prevented from doing so by any cause whatsoever reasonably beyond the control of Owner, its agents, employees and contractor and subcontractors, or by laws, orders, rules or regulations of any federal, state, county or municipal authority, or failure of suitable fuel supply, or inability by exercise of reasonable diligence to obtain suitable fuel or by reason of governmental preemption in connection with an emergency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency. The exercise of such right or such failure by Owner shall not constitute an actual or constructive eviction, in whole or in part. Notwithstanding the foregoing, Owner acknowledges that due to the nature of Tenant's business, except in the case of emergency, Owner shall not disrupt the supply of the services Owner supplies to Tenant without reasonable prior written notice to Tenant, and Owner and Tenant shall use good faith efforts to schedule any required repairs or service disruptions at a mutually acceptable time.

#### 47. TENANT'S OPERATING OBLIGATIONS. Tenant covenants and agrees that during the Term of this Lease:

A. If any governmental license or permit shall be required or recommended for the proper and lawful conduct of Tenant's business in the Demised Premises, or any part thereof, then Tenant, at its sole cost and expense, shall duly procure and thereafter maintain such license or permit, and shall submit the same for inspection by Owner. Tenant shall at all times comply with the terms and conditions of each such license or permit.

B. Tenant shall keep the Demised Premises in a neat, clean and orderly condition, free from debris, garbage and odors, vermin and rodents, both within and outside the Demised Premises. Tenant shall cause the Demised Premises and the entrance door or doors, and all glass surfaces (interior and exterior) and any service entrance area to be cleaned at regular intervals, and Tenant shall handle and dispose of all rubbish, garbage and waste (other than sewer waste) from Tenant's operations, at Tenant's sole cost and expense, and in accordance with the rules and regulations

established by Owner from time to time. Tenant covenants and agrees that no refuse, garbage or supplies of any nature shall be allowed or permitted to remain on the sidewalk in front of the Demised Premises or the Building. Tenant agrees to keep all garbage, waste materials and refuse effectively covered in clean and sanitary containers, and sorted in accordance with recycling requirements and in accordance with reasonable requirements established by the Owner and of all applicable federal, state, city or other local laws and ordinances. Owner shall provide Tenant a reasonable location appurtenant to the Building and within the general proximity of the Demised Premises for Tenant's staging of its refuse removal.

C. All medical and so-called "red bag" waste (hereinafter, "Medical Waste") shall be kept in proper containers within the Demised Premises in accordance with all applicable federal, state, city or other local laws or ordinances, and, such Medical Waste shall be disposed of by Tenant, at its sole cost and expense, using duly licensed medical waste carters. Further, under no circumstances shall any Medical Waste be stored outside of the Demised Premises. Tenant shall be responsible for, and shall indemnify Owner against any cost and expenses, including, but not limited to, fines, penalties, and reasonable attorney's fees imposed against the Owner of the Building for the improper containing and/or disposal of any Medical Waste.

D. In the event any municipal or governmental agency issues a summons, fine, violation or the like against Owner, Tenant or the Demised Premises (including any sanitation and environmental violations) arising out of, or relating to, Tenant's use and occupancy of the Demised Premises or alterations to the Demised Premises by Tenant during the term of this Lease, Tenant agrees to promptly pay same and to indemnify, defend and save Owner harmless from any such fine, imposition, violation or the like, together with reasonable attorneys' fees and any incidental expenses. Notwithstanding the foregoing, Tenant shall have no obligation to cure any violations or violative conditions affecting the Demised Premises or the Building existing on the date of this Lease, or to indemnify Owner therefrom.

E. Tenant hereby covenants and agrees that it will not cause or permit any hazardous materials to be used, stored, transported, released, produced or installed in, on, or from the Demised Premises in violation of applicable law.

F. Tenant shall not use the sidewalk or any portion of the Building or land outside of the Demised Premises for display purposes or for any other use. Owner shall keep the sidewalks adjoining the Building unobstructed and unencumbered in any way, and Tenant shall not use the same for any purpose.

G. Tenant covenants and agrees that, throughout the term of this Lease, Tenant, at its own cost and expense, will repair and replace any and all damaged or broken window, door or other glass, plate or otherwise, together with the frames and supports thereof on the inside and outside of the Demised Premises, irrespective of the cause of damage or breakage, unless such damage or breakage is directly caused by Owner or Owner's agents, servants, contractors, employees, licensees, invitees and the other tenants of the Building (other than in their capacity as invitees of Tenant).

H. The Demised Premises shall be attended at all hours of operation by Tenant or Tenant's employees, including Tenant's agents, affiliates, and invitees, who will assume full responsibility for following all rules and regulations of this Lease and any state or municipal government requirements.

I. Tenant, at its own cost and expense, shall use all possible diligence for the prevention and extermination of insects, vermin, rats or mice in the Demised Premises..

J. Except as expressly provided to the contrary herein, Owner shall not incur any expense or have any obligation of any kind whatsoever in connection with the maintenance of the Demised Premises, and Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Owner's expense, or to terminate this Lease because of Owner's failure to keep the Building or the Demised Premises in good order, condition and repair.

K. Tenant shall not allow or permit any noise, music, vapors, smells, odors, fumes or other undesirable effects to emanate from the Demised Premises which shall be reasonably objectionable

to Owner or to the other tenants of the Building, or to otherwise suffer, allow or permit any noise, odor or other undesirable effect to constitute a nuisance or otherwise interfere with the comfort or convenience of Owner or the other tenants of the Building. Upon the request of Owner, Tenant shall immediately cease and desist from any action, which shall cause a violation of this provision. Owner shall exercise reasonable efforts to prevent or prohibit any noise, music, vapors, smells, odors or other undesirable effects to emanate from elsewhere in the Building into the Demised Premises, which condition Tenant may find reasonably objectionable or which constitutes a nuisance or otherwise interferes with Tenant's use and occupancy as permitted hereunder, but in no event shall Owner be obligated to institute any proceedings with regard to same.

L. If Tenant defaults in the performance or observance of any term or covenant of this Lease, Owner may immediately, in the event of emergency, or upon ten (10) days notice to Tenant, remedy such default on behalf of Tenant and Tenant shall pay all costs incurred by Owner in connection therewith, including all reasonable attorneys fees incurred in instituting, prosecuting or defending any action.

48. SIGNAGE. A. In addition to Tenant's signage currently existing at the Demised Premises (if any), Owner agrees that signage identifying Tenant's business at the Demised Premises may be installed (which is hereby approved) and maintained by Tenant on Owner's lobby directory, at the entrances to the Demised Premises and at a location on the exterior of the Building to be approved in writing by Owner, which approval shall not be unreasonably withheld, delayed or conditioned.

B. At the end of the term of the Lease, Tenant shall remove all signs installed at the Building, but shall not be obligated to repair all damage caused by such removal.

49. EXCULPATORY CLAUSE. Tenant is accepting this Lease and the estate created hereby upon and subject to the understanding that Tenant shall not enforce, or seek to enforce, any claim, judgment or other matter, for money or otherwise, personally against any officer, director, member, partner, principal (disclosed or undisclosed), representative or agent of Owner, but shall look solely to the equity of Owner in the Demised Premises, including the proceeds from the sale or assignment thereof, and not to any other property or assets of Owner, for the satisfaction of any and all remedies or claims of Tenant in the event of any breach by Owner of any of the terms, covenants or agreements to be performed by Owner under this Lease or otherwise; such exculpation of any officer, director, member, partner principal (disclosed or undisclosed), representative or agent of Owner from personal liability as set forth in this Article shall be absolute, unconditional and without exception of any kind.

50. ASSIGNMENT AND SUBLETTING. Tenant shall not be permitted to assign this Lease or to sublet all or substantially all of the Demised Premises without Owner's prior written consent. Notwithstanding the foregoing, Tenant shall have the right to permit the occupancy of the Demised Premises by an "Affiliate" (as defined herein) of Tenant, by assignment, sublet, license or otherwise. Tenant shall provide Owner written notice of such "Affiliated Occupancy", but Owner's approval or consent shall not be required. In all such events, Tenant shall not be relieved or discharged of its obligations to Owner hereunder, unless expressly approved by Owner, and any Affiliated Occupancy shall comply with the terms of this Lease, including without limitation the uses permitted hereunder. For the purposes herein, "Affiliate" shall mean any corporation, company, partnership, person or other entity that directly or indirectly controls or is controlled by Tenant.

51. BROKERS. No broker is entitled to a commission in connection with this Lease.

52. ENTIRE AGREEMENT. This Lease, as written, contains all the terms of the agreement entered into between the parties, and Tenant acknowledges that Owner has made no representations or warranties, is unwilling to make any representations, and held out no inducements to Tenant, other than those herein expressed.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day  
and year above written.

OWNER:

TENANT

SAINT VINCENTS CATHOLIC MEDICAL  
CENTERS OF NEW YORK

KINCHUNG LAM

By:

Name:

Title: