

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: Nov. 9, 1993

TO: Board of Selectmen
Council on Aging

FROM: Don P. Johnson, Town Manager

SUBJECT: Audubon Hill Lease

I am pleased to announce that we are now in receipt of fully executed lease documents for the Senior Center at Audubon Hill (copy attached). Walter Harrington, representing the Board of Governors of the Audubon Hill South Condominium Association, made the delivery to my office at noon today.

We are currently planning to move into this facility on November 22-24. By copy of this notice to Carol Lake and Dean Charter I am advising them to proceed with all due haste.

By copy to the Town Clerk's Office I am asking Cathy Belbin to retain our original copy of the lease in her files.

cc: Carol Lake
Dean Charter



EXHIBIT H

LEASE

This instrument is an Indenture of Lease between Audubon Hill South Condominium Association and Audubon Hill North Condominium Association and the TOWN OF ACTON, MASSACHUSETTS, a Massachusetts municipal corporation acting by and through its Board of Selectmen (the "Tenant").

The parties to this instrument hereby agree with each other as follows:

ARTICLE I

SUMMARY OF BASIC LEASE PROVISIONS

1.1 BASIC DATA

Date: 1 November 1993

Landlord: Audubon Hill North Condominium Association and Audubon Hill South Condominium Association

Present Mailing Address of Landlord: P. O. Box 951
Acton, MA 01720

Tenant: Town of Acton

Present Mailing Address of Tenant: Acton Town Hall
Acton, MA 01720
Attn: Town Manager

Leased Premises: The Landlord's building, known as the Smith-Cloonan Center for Town of Acton Seniors, constructed in accordance with the Plan referenced as Exhibit 1 to a Special Permit granted by the Town of Acton Planning Board to the Landlord on March 4, 1989 (the "Building") along with a storage shed. The approximately 1.66 acres of land on which the Building is located, commonly known as the Town of Acton Senior Center, a common area located in the Audubon Hill North and South Condominium, Acton, (specifically identified as Lot E and numbered 50

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Audubon Drive with drive and parking area as shown on Exhibit A to this lease), Massachusetts 01720, together with all appurtenances thereto and fixtures thereon, including the Parking Lot. The Building, Lot, appurtenances and fixtures are collectively referred to herein as the "Leased Premises".

Initial Lease Term:

Ninety nine (99) calendar years (plus the partial calendar month, if any, following the Commencement Date).

Option to Extend:

Tenant has the option to extend the term of this Lease for an additional ninety nine (99) years on the terms set forth in Section 3.4.

Annual Rent:

One Dollar (\$1.00) per year.

Commencement Date:

1 November 1993 or upon signature of the lease by all parties.

Permitted Use:

The Building may be used as a center for the use of all Senior Citizens who reside in the Town of Acton and uses incidental thereto, and such other uses which conform, as of right or otherwise, with the zoning laws of the Town of Acton, Massachusetts from time to time applicable thereto.

1.2 ENUMERATION OF EXHIBITS

Exhibit A:

Plan showing the planned configuration and location of the Building and the Lot.

ARTICLE II

2.1 DEMISE AND LOCATION OF PREMISES

The landlord hereby leases to the Tenant, and the Tenant hereby accepts from the Landlord, the premises (the "Premises") describe in Section 1.1 as the Leased Premises. Attached hereto as Exhibit A is a plan showing the planned location of the Building and the Lot.

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ARTICLE III

TERM OF LEASE

3.1 COMMENCEMENT DATE

The original term (the "Term" or "Lease Term") of this Lease shall be for the period specified in Section 1.1 as the Lease Term. If Section 1.1 provides for a fixed Commencement Date, then the Commencement Date of the term hereof shall be such date. Otherwise, the term of this Lease shall commence on, and the Commencement Date shall be, the first to occur of:

(a) the date on which the Premises shall be deemed ready for occupancy, as defined in Section 3.2 below; or

(b) the date upon which Tenant commences beneficial use of the Premises.

Tenant shall, in all events, be treated as having commenced beneficial use of the Premises when it begins to move into the Premises furniture and equipment for its regular business operations.

As soon as may be convenient after the Commencement Date has been determined, Landlord and Tenant agree to join with each other in the execution, in recordable form, of a written Declaration in which the Commencement Date and specified term of this Lease shall be stated.

3.2 PREPARATION OF PREMISES FOR OCCUPANCY

The Premises shall be deemed ready for occupancy on the date on which (i) the Premises, together with sufficient facilities for reasonable access and service thereto, have been completed, except for items of work and mechanical adjustment of equipment and fixtures which because of season or weather or nature of the item cannot practicably be done at the time or are not necessary to make the Premises reasonably tenantable for its Permitted Use; and (ii) there has been delivered to Tenant both a registered architect's or engineer's certificate of such completion, and a certificate of occupancy covering the Premises (temporary or permanent) issued by the governmental authority having jurisdiction thereof.

Landlord shall complete as soon as conditions practicably permit all items of work excepted under the above paragraph and Tenant shall not use the Premises in such manner as to increase the cost of such completion.

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3.3 TENANT'S CANCELLATION OPTION

The parties agree that Tenant shall have the exclusive option to terminate this Lease upon not less than one year's prior written notice to Landlord, such termination to be effective and such option to be exercised as hereinafter provided. To exercise such option, Tenant shall give written notice to Landlord of the election of such option to terminate, which notice shall specify the effective date of such termination; such termination date shall be no sooner than one year after the date of such notice. If Tenant gives such notice, the rights and obligations of the parties shall cease as of the termination date specified in such notice and rent shall be adjusted as of such termination date.

3.4 EXTENSION OPTION

If the Tenant is not in default hereunder, the Tenant shall have the right to extend the Term of this Lease for one ninety-nine (99) year extension to the Term, provided that on or before the date nine (9) months prior to the expiration of the original Lease Term, the Tenant gives written notice of its election to extend this Lease upon the same terms, covenants and conditions contained in this Lease.

ARTICLE IV

RENT AND OTHER CHARGES

4.1 RENT

Tenant shall pay to Landlord Annual Rent, in arrears, on the second day of each calendar year during the Lease Term. Payments of Annual Rent shall be made to Landlord, at Landlord's mailing address or at such other place as Landlord shall from time to time designate by written notice to Tenant.

Landlord and Tenant acknowledge that it is the intention that use of the Building and lot be a gift from Jean and Roy Smith in memory of their parents Arthur and Anna Cloonan, and John and Karin Smith, all of Holden, Massachusetts. Tenant agrees that Landlord may erect or cause to be erected a plaque located on the Leased Premises substantially to such effect.

4.2 TENANT TO PAY REAL ESTATE TAXES

Tenant shall be responsible for the payment before the same become delinquent, of all real estate taxes and taxes in the nature of real estate taxes (the "Taxes") upon the Building and the Lot, even if the Landlord shall construct an addition to the Building or construct an additional structure or structures on the Lot; provided, however, that the Town

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may seek the full or partial abatement of Taxes on the Leased Premises, for so long as the Tenant occupies any part of the Premises. However, if authorities having jurisdiction assess real estate taxes, which Tenant deems excessive, Tenant may defer compliance therewith to the same extent permitted by the laws of the jurisdiction in which the same are located, so long as the validity or amount thereof is contested by Tenant in good faith, and so long as Tenant's occupancy of the Premises is not disturbed.

ARTICLE V

USE OF THE PREMISES

5.1 PERMITTED USES

The Tenant shall use the Premises only for the Permitted Use specified in Section 1.1. The Landlord warrants that as of the Commencement Date the use of the Premises as a senior citizens' center is permitted as of right by all applicable laws and regulations, including the applicable building and zoning codes and that there exist no deed restrictions or other restrictions as to the use of the Premises for the above-mentioned purposes. The Landlord warrants that it has full right and lawful authority to enter into this Lease, that this Lease has been duly authorized pursuant to the applicable trust documents and that it has good and marketable record title to the Premises. If any law, ordinance or regulation, or deed restriction or other restriction at any time prohibits the Permitted Use referred to in Section 1.1, then the Tenant may, at its option, terminate this Lease upon notice to the Landlord without prejudice to any other rights the Tenant may have at law or in equity.

The Tenant shall not commit, or suffer to be committed any waste upon the Premises or any public or private nuisance.

5.2 ALTERATIONS

The Tenant may, at its own expense, place office and trade fixtures, office equipment and the like in the Premises and make alterations, improvements, or additions to the Premises provided such work shall be performed in a good and workmanlike manner employing materials of good quality and in compliance with laws, rules, orders and regulations of governmental authorities having jurisdiction thereof. Furthermore, should the Tenant require sewage discharge capability in excess of that contemplated in the Plan for the Senior Center, the Tenant shall, at its own expense, obtain all necessary permits for and perform or cause to be performed the connection of the Building to the applicable public sewage system. All alterations, additions and improvements made by the Tenant to the Premises shall remain

therein and, at termination of the Lease, shall be surrendered as a part thereof, except for fixtures and equipment installed at the Tenant's cost, which fixtures and equipment may be removed by the Tenant. The Tenant shall, at Tenant's own expense, promptly repair all damage to the Premises or the Building resulting from any such removal. The Tenant shall not be required to redecorate the Premises at the termination of this Lease.

ARTICLE VI

ASSIGNMENT AND SUBLETTING

6.1 PERMITTED ASSIGNMENT AND SUBLETTING

The Tenant may not assign or otherwise transfer this Lease or any interest herein, or sublet, without the prior written consent of the Landlord, except the Tenant may assign this Lease to another municipal or quasi-municipal agency or organization without the Landlord's consent.

In the event of an assignment of this Lease by the Tenant, the Landlord shall execute an agreement with the assignee whereby the assignee agrees directly with the Landlord to be bound by all Tenant obligations hereunder and by the execution of such agreement, the Tenant shall be released of all liability for Tenant obligations under this Lease.

ARTICLE VII

RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

7.1 REPAIRS AND MAINTENANCE

Except as otherwise provided in this Article VII, from and after the Commencement Date, and until the end of the Lease Term, the Tenant shall keep the interior of the Premises (including ceilings, interior walls, exterior doors and closers, windows and window glass, and floors of the Premises and all sanitary and toilet facilities in the Premises) in good order, condition and repair, reasonable wear and tear and damage by fire or casualty and repairs made necessary as a result of a taking by condemnation or right of eminent domain and matters for which Landlord is responsible hereunder only excepted; and shall keep in good order, condition and repair the plumbing, electrical, lighting, heating, ventilating equipment, air conditioning and other mechanical equipment of the Building and all utility lines, wires, pipes, ducts and conduits serving the Building; and the Tenant shall surrender the Premises at the end of the Lease Term in such condition.

The landlord shall keep in good order, condition and repair the roof and exterior of the Building, the foundation of the Building, the structural elements of the Building and of the Premises, and the parking facilities on the Lot, and shall be responsible for all other repairs except those required to be made by the Tenant. Furthermore, the Landlord shall maintain and landscape the grounds in a manner consistent with the balance of the Audubon Hill project and a certain Conservation Restriction executed by the Landlord placed on property which includes the Lot.

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7.2 SNOW REMOVAL

From and after the commencement date and until the termination of the lease term, the tenant shall provide the sanding, roadway snow removal and sidewalk snow removal to provide for the operation of the Senior Center.

ARTICLE VIII

UTILITIES

8.1 LANDLORD'S COVENANT

Landlord covenants that at the commencement of the Lease Term the plumbing, electrical, lighting, ventilating and heating equipment will all be in good mechanical and operating condition, and that the heating equipment will be or sufficient capacity to heat the Leased Premises at 70 degrees Fahrenheit when the outside temperature is 0 degrees Fahrenheit or above.

8.2 HEAT, VENTILATION AND AIR CONDITIONING

The Tenant shall be responsible for paying all costs of electricity and other utilities used by the systems providing heating and ventilation to the Building.

8.3 WATER, ELECTRICITY, OTHER UTILITIES

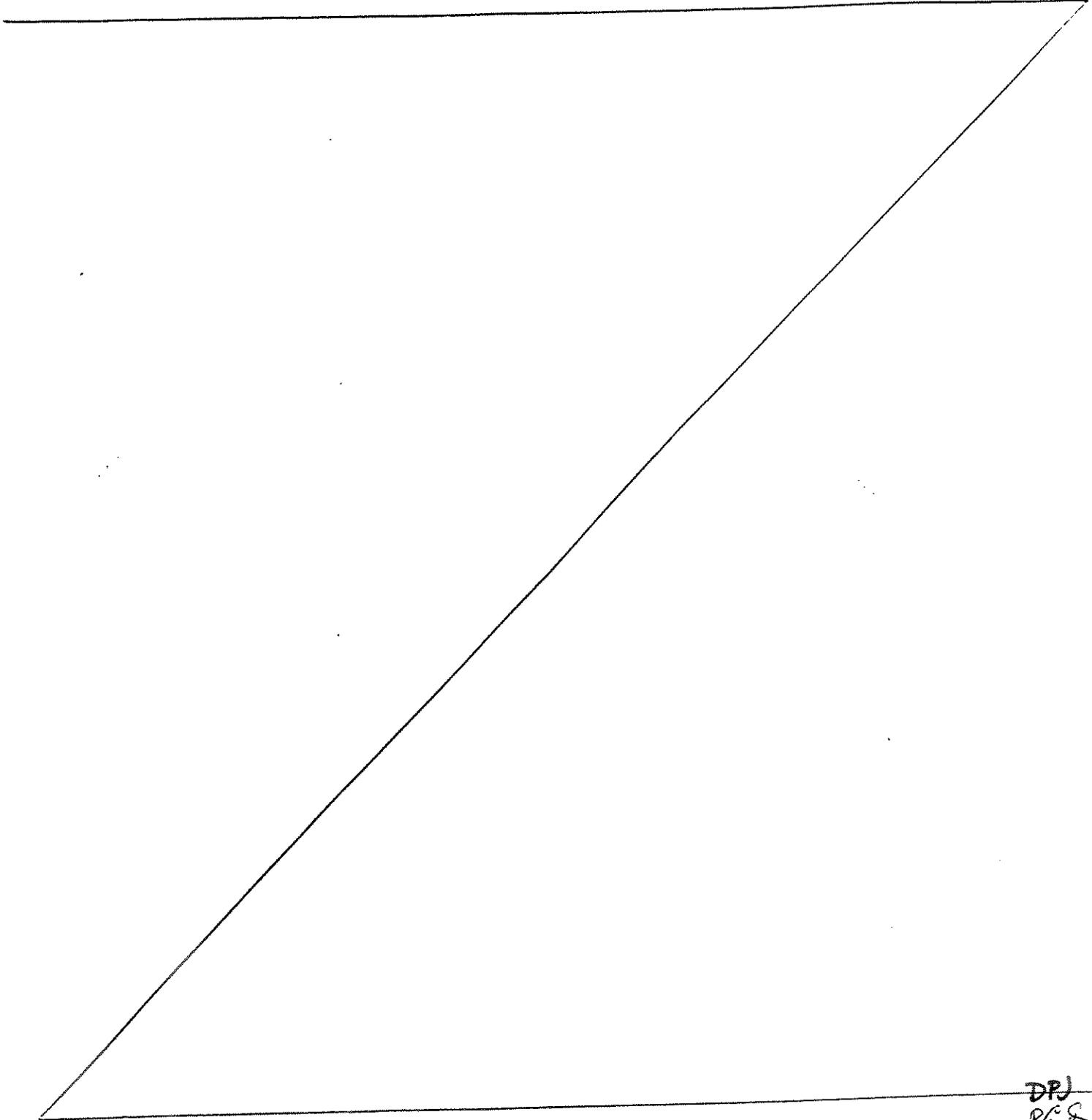
The water, septic sewer, electricity and other utilities furnished to the Premises, including electricity used in heating and ventilating the Premises, and other utilities shall be separately metered. The Tenant shall pay directly to the supplier of such utility services the cost of such utilities consumed in the Premises.

8.4 SEWER OR SEPTIC

In the event that the Tenant elects to connect the Building with the appropriate public sewage system as provided in Section 5.2 hereof, the Tenant agrees to pay directly to the supplier of such utility service the cost of such utilities consumed in the Premises.

Septic - The tenant shall have the 1,000 gallon grease trap, located outside the building under the parking lot, visually checked every month and cleaned every six months at a minimum for the first eighteen (18) months. The 1,500 gallon septic tank located in the same general area will be cleaned once a year for the first two (2) years as a minimum. The landlord will be notified when such cleaning is scheduled. Within 90 days of the end of the time limits previously mentioned, the Acton Board of Health shall determine, based upon pumping inspections, local by-laws and regulations, and State statutes and regulations, an appropriate cleaning schedule. Occupancy septic flow rate, as measured by a three-year moving average of two times (200%) of the actual water flow rate provided by the Acton Water District, shall not exceed 911 gallons per day until the installation of additional trenches is complete which will increase the number to 1,156 gallons per day. The installation of the

trenches will be accomplished by the Town of Acton prior to 30 November 1993 after receipt and approval of an engineered and stamped revision plan with accompanying report from the Acton Board of Health. Copies of paid water bills for FY 1994 will be sent to the Audubon Hill North Condominium Association within thirty (30) days of receipt. For the remainder of the lease term, the Town of Acton shall keep three (3) years of water bills on file for review by the landlord upon reasonable notice.



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ARTICLE IX

INSURANCE AND INDEMNITY

9.1 TENANT'S LIABILITY INSURANCE

The Tenant agrees to maintain in full force from the date upon which the Tenant first enters the Premises for any reason, throughout the Lease Term, and thereafter so long as the Tenant is in occupancy of any part of the Premises, a policy of comprehensive general liability insurance, written on an occurrence basis and including broad form contractual liability coverage insuring against all claims for injury to or death of persons or damage to property on or about the Premises or arising out of the use of the Premises, and under which the Landlord is named as an additional insured.

The minimum combined single limit of liability of such insurance shall be one million dollars (\$1,000,000) per occurrence.

Such insurance coverage shall be effected upon terms reasonably available with insurers authorized to do business in Massachusetts and under valid and enforceable policies which shall be non-amendable and non-cancellable without ten days' prior notice to the respective insureds. Upon the request of the Landlord, a duplicate original policy or certificate of such policy shall be delivered to the Landlord.

9.2 CASUALTY INSURANCE

The Tenant shall procure, keep in force, and pay for, at its sole expense, an All Risk (Open Perils) policy of insurance upon the Building and its fixtures and other equipment, including fire and extended coverage, and in any event in an amount at least equal to the full replacement cost of the Building, subject to appropriate co-insurance requirements, as well as insurance against breakdown of boilers and other machinery as customarily insured against, under which the Landlord is named as an additional insured and to supply to the Landlord from time to time certificates of all such insurance issued by or on behalf of the insurers named therein by a duly authorized agent.

9.3 NON-SUBROGATION

Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies (even though extra premium may result therefrom), the Landlord and the Tenant mutually agree that, with respect to any hazard which is covered by insurance required to be carried by them hereunder, respectively, the one carrying such insurance and suffering

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such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such extra premium. If, at the request of one party, this release and non-subrogation provision is waived then the obligation of reimbursement shall cease for such period of time as such waiver shall be effective. If the release of either party provided above shall contravene any law with respect to exculpatory agreements, the liability of the party for whose benefit such release was intended shall remain but shall be secondary to that of the other party's insurer.

9.4 TENANT'S INDEMNITY

Except to the extent caused by any act, fault, omission, misconduct or negligence of Landlord or Landlord's agents or employees, Tenant agrees to indemnify and save harmless the Landlord from and against all claims, expenses, or liability of whatever nature (a) arising from any act, omission, or negligence of Tenant, Tenant's contractors, licensees, agents, servants, employees, or customers or (b) arising directly or indirectly from any occurrence, accident, injury, or damage, however caused, to any person or property on or about the Premises.

The foregoing indemnity and hold harmless agreement shall include indemnity against all costs, expenses, and liabilities incurred in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel acceptable to Landlord or counsel selected by an insurance company that has accepted liability for any such claim.

9.5 LANDLORD'S INDEMNITY

The Landlord shall indemnify and save harmless the Tenant and its Board of Selectmen, officers, agents and employees from and against all claims, expenses (including, without limitation, attorney's fees) or liability of whatever nature arising: (a) from any act, fault, omission, misconduct or negligence of the Landlord, or the Landlord's contractors, licensees, agents, servants or employees; or (b) directly or indirectly out of default by the Landlord under any of the terms or covenants of this Lease; provided, however, that in no event shall the Landlord be obligated under this Section 9.5 to indemnify the Tenant, its Selectmen, officers, agents and employees, where such claim, expense or liability arose from any act, omission, fault, negligence or other misconduct of the Tenant or such persons on or about the Premises or the Building.

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This indemnity and hold harmless agreement shall include indemnity against all expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof (with counsel reasonably acceptable to the Landlord).

ARTICLE X

LANDLORD'S ACCESS TO PREMISES

10.1 LANDLORD'S RIGHT OF ACCESS

The Landlord shall have the right to enter the Premises during normal business hours upon reasonable prior notice to the Tenant, and in the event of an emergency at any hour without notice, for the purpose of making repairs to the same, and the Landlord shall also have the right to make access available during normal business hours upon reasonable prior notice to the Tenant to prospective or existing mortgagees or purchasers of the Premises. The Rent and all other charges payable hereunder shall abate for any period and to the extent that any portion of the Premises is made untenable by such activity.

ARTICLE XI

CASUALTY

11.1 DEFINITION OF "SUBSTANTIAL DAMAGE" AND "PARTIAL DAMAGE."

The term "substantial damage" as used herein, shall refer to damage which is of such a character that the same cannot, in the Tenant's reasonable opinion, be reasonably expected to be repaired within forty-five (45) days from the time that such work would commence. Any damage which is not "substantial damage" is "partial damage."

11.2 PARTIAL DAMAGE TO THE BUILDING

If during the Lease Term there shall be partial damage to the Building by fire or other casualty, the Landlord shall promptly proceed to restore the Building to substantially the condition in which it was immediately prior to the occurrence of such damage and shall diligently pursue such restoration, to the extent insurance proceeds are available therefor.

11.3 SUBSTANTIAL DAMAGE TO THE BUILDING

If during the Lease Term there shall be substantial damage to the Building by fire or other casualty and if such damage shall unreasonably interfere with the Tenant's use of DPJ

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the Premises as contemplated by this Lease, the Landlord shall promptly and diligently proceed to restore, or cause to be restored, the Building to substantially the same condition in which it was immediately prior to the occurrence of such damage, to the extent insurance proceeds are available therefor, unless Tenant, within thirty (30) days after the occurrence of such damage, shall give notice to the Landlord of its election to terminate this Lease. If Tenant shall give such notice, then this Lease shall terminate as of the date of such notice with the same force and effect as if such date were the date originally established as the expiration date hereof.

11.4 ABATEMENT OF RENT

If during the Lease Term the Building or the Premises shall be damaged by fire or other casualty and if such damage shall interfere with the Tenant's use of the Premises as contemplated by this Lease, the Rent and all other charges payable hereunder, or a fair and just proportion thereof, according to the nature and extent of such loss of use, shall be suspended or abated until the Building or the Premises, as the case may be, are restored as provided in this Article XI.

ARTICLE XII

EMINENT DOMAIN

12.1 RIGHTS OF TERMINATION FOR TAKING

If the Building, the Lot or a portion thereof shall be taken by condemnation or right of eminent domain (including a temporary taking) and if such taking shall be such as in the ordinary course would interfere with the Tenant's use of the Premises for the purposes leased hereunder (including, without limitation, interference with the use of Tenant's Parking Spaces), the Tenant shall have the right to terminate this Lease by notice to the Landlord of its desire to do so, provided that such notice is given not later than thirty (30) days after the effective date of such taking.

Should any part of the Building, the Lot or any portion thereof be so taken and should this Lease be not terminated in accordance with the foregoing provisions, the Landlord shall with all reasonable diligence, restore the Building to an architectural unit that is reasonably suitable to the uses of the Tenant and to the extent applicable, provide replacement parking facilities substantially equal in size and, to the extent possible, accessibility, to those parking facilities taken, to the extent of proceeds available therefor. If the Landlord shall not have completed such restoration work to the extent necessary to enable the Tenant to use the Premises for the purposes and in the manner contemplated by

this Lease by the expiration of ninety (90) days after the effective date of such taking, then the Tenant may terminate this Lease by notice to the Landlord with the same force and effect as if such date were the date originally established as the expiration date hereof.

12.2 ABATEMENT OF RENT

In the event of a taking described in Section 12.1, the Rent and all other charges payable hereunder, or a fair and just proportion thereof according to the nature and extent of the Tenant's loss of use shall be suspended or abated until the Premises are restored as provided in this Article XII.

12.3 AWARD

The Landlord and Tenant shall have the right to recover for damages to the Building and the Land and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, as their respective interests may appear. Nothing contained herein, however, shall be construed to prevent the Tenant from prosecuting in any condemnation proceeding a claim for the value of the Tenant's trade fixtures and for relocation expenses.

ARTICLE XIII

DEFAULT

13.1 TENANT'S DEFAULT

If:

(a) the Tenant shall fail to pay the Rent or other charges on or before the date on which the same becomes due and payable and the same continues for thirty (30) days after notice from the Landlord thereof, or

(b) the Tenant shall fail to perform or observe any other term or condition contained in this Lease and the Tenant shall not cure such failure within sixty (60) days after notice from the Landlord thereof and promptly and diligently complete the curing of the same (or unless such failure is of such a nature that it cannot be cured within sixty days, in which case no default shall occur so long as Tenant shall commence the curing of the failure within such sixty-day period and shall thereafter promptly and diligently complete the curing of the same), then, and in any of such cases, the Landlord may, immediately or at any time thereafter while such failure continues, terminate this Lease by giving notice of termination to the Tenant. The Tenant covenants and agrees, notwithstanding such termination

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of this Lease, to pay and be liable for, on the days originally fixed herein and for the payment thereof, amounts equal to the several installments of rent and other charges reserved as they would, under the terms of this Lease, become due if this Lease had not been terminated, but in the event the Premises or any part thereof shall be relet by the Landlord, the Tenant shall be entitled to a credit equal to the net amount of rent received by the Landlord in reletting, determined as follows:

Amounts received by the Landlord from reletting and for the remainder of what would have been the Lease Term had the Tenant fully complied with the terms of this Lease (and no other special event allowing termination had occurred) shall be credited against the Tenant's obligations as of each day when a payment would fall due under this Lease, and only the net amount thereof, if any, shall be payable by the Tenant. In the event of such termination, the Landlord agrees to use reasonable efforts to relet the Premises promptly and upon such terms as to minimize the Tenant's damages hereunder.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

14.1 WAIVER

Failure on the part of the Landlord or the Tenant to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be a waiver by the Tenant or the Landlord, respectively, of any of the other's rights hereunder. Further, no waiver at any time of any of the provisions hereof by the Landlord or the Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of the Landlord or the Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary the Landlord's or the Tenant's consent or approval to or of any subsequent similar act by the other.

14.2 COVENANT OF QUIET ENJOYMENT

Subject to the terms and provisions of this Lease and on payment of the Rent and compliance with all of the terms and provisions of this Lease, the Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises

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during the term hereof, the foregoing covenant of quiet enjoyment is in addition to and not in lieu of the Tenant's rights of quiet enjoyment under common law.

14.3 INVALIDITY OF PARTICULAR PROVISIONS

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

14.4 PROVISIONS BINDING, ETC.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of the Landlord and the Tenant. Each term and each provision of this Lease to be performed by the Tenant and the Landlord shall be construed to be both a covenant and a condition.

14.5 RECORDING

The Landlord and the Tenant agree to record this Lease, or to execute, acknowledge and deliver a notice of lease referencing, without limitation, Tenant's option to extend the term of this Lease in form reasonably acceptable to Tenant. Any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

14.6 NOTICES

Whenever, by the terms of this Lease, a notice shall or may be given either to the Landlord or to the Tenant, such notice shall be in writing and shall be sent by hand delivery or by registered or certified mail, return receipt requested, postage prepaid as follows:

If intended for the Landlord, addressed to the Landlord at the address set forth on the first page of this Lease with a copy to Landlord's attorneys: Richard M. Cotter, Esq., Wilson, Orcutt, Cotter & Greenberg, P.C., 201 Great Road, Acton, Massachusetts 01720 and, if intended for the Tenant, addressed to the Tenant at the address set forth on the first page of this Lease with a copy to Tenant's attorney: Norman P. Cohen, Esq., Palmer & Dodge, One Beacon Street, Boston, Massachusetts 02108 or to such other address or addresses as may from time to time hereafter be designated by either party by like notice.

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All such notices shall be effective upon receipt or upon refusal to receive.

14.7 PARAGRAPH HEADINGS

The paragraph headings throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

14.8 NO BROKERAGE

Each party warrants and represents to the other that each has dealt with no broker in connection with the consummation of this Lease, and, in the event of any brokerage claims against one party predicated upon prior dealings with the other party, the other party agrees to defend the same and indemnify the one party against any such claim.

14.9 WHEN LEASE BECOMES BINDING

This document shall become effective and binding only upon the execution and delivery hereof by both the Landlord and the Tenant. All negotiations, consideration, representations and understandings between the Landlord and the Tenant are incorporated herein and may be modified or altered only by written agreement between the Landlord and the Tenant, and no act or omission of any employee or agent of the Landlord shall alter, change or modify any of the provisions hereof.

14.10 STATUS REPORT; MODIFICATION

Recognizing that both parties may find it necessary to establish to third parties, such as accountants, mortgagees or the like, the then current status of performance hereunder, either party, on the request of the other made from time to time, will promptly furnish a statement of the status of any matter pertaining to this Lease. Where either party's consent or approval is required hereunder, it shall not be unreasonably withheld or delayed.

14.11 SELF-HELP

Tenant shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of moneys which may be necessary or appropriate by reason of the failure or neglect of the Landlord to perform any of the provisions of this Lease, and in the event of the exercise of such right, the Landlord agrees to pay all such sums forthwith upon demand.

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14.12 HOLDING OVER

Any holding over by the Tenant after the expiration of the Lease Term shall be treated as a tenancy from month to month terminable upon sixty (60) days' notice by either Landlord or Tenant to the other and otherwise on the terms and conditions set forth in this Lease, so far as applicable.

14.13 NON-INTERFERENCE

Any action taken by the Landlord under this Lease shall be taken in a manner so as not to interfere unreasonably with the Tenant's use and occupation of the Premises.

14.14 CONSENT

Where either party's consent or approval is required hereunder, it shall not be unreasonably withheld, delayed or qualified.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed, under seal, as of the date first written above.

LANDLORD: AUDUBON HILL SOUTH CONDOMINIUM ASSOCIATION

By Walter Harrington
Walter Harrington, President

AUDUBON HILL NORTH CONDOMINIUM ASSOCIATION

By Roy C. Smith
Roy C. Smith, President

TENANT: TOWN OF ACTON, MASSACHUSETTS

By T. J. [Signature]
not individually but as a member of the
Town of Acton Board of Selectmen

By Will C. Mull
not individually but as a member of the
Town of Acton Board of Selectmen

By Nancy E. [Signature]
not individually but as a member of the
Town of Acton Board of Selectmen

DRJ
RCS
[Signature]

T S

PARKING LOT

LOT E
PROPOSED
ELDERLY
CENTER

PARKING LOT

LOT S

AUDUBON DRIVE

RESI
BUI

AUDUBON DRIVE

LOT S

DRJ
ES
/AK

