

MEMORANDUM

To: CRA Board

From: Erica Schwarz

Date: April 13, 2022

Re: Foundry Cooperation Agreement & Foundry Consortium Sublease

INTRODUCTION

The Foundry building is now targeted to be substantially complete by June 30th and full community operations will begin in September. As the Foundry construction project enters its final months and the CRA and Foundry Consortium prepare for the building to open to the public in September, a pair of contracts need to be executed. Both documents align with the Foundry Demonstration Project Plan and the Master Lease that the CRA holds on the Foundry from the City of Cambridge.

1. **Cooperation Agreement:** As an attachment to the Master Lease for the Foundry building, this agreement outlines the relationship between the CRA and City of Cambridge, and the financial and other obligations that each party has, as related to the design, construction, and operation of the Foundry renovation project (“Project”). The Cooperation Agreement has not been formally amended since the CRA Board’s November 2020 approval for additional investments in the Project to support increased construction costs and the need to allocate funds for maker space equipment. This amendment reflects the additional project cost as well as clarifies additional financial and operational considerations.
2. **Foundry Consortium Sublease:** The CRA needs to execute a sublease with the nonprofit Foundry Consortium so that they may assume the role of independent operator and manager of the building. The sublease, which aligns with the Term Sheet previously approved by the CRA and Foundry Consortium boards, will supersede the Memorandum of Understanding (MOU) that now governs the working relationship between the CRA and Foundry Consortium.

Additionally, the Foundry has four office suites, the rental income of which will support a significant portion of the site’s annual operating budget. Tenants have been identified for three of the four suites. Deep Genomics and Break Through Cancer are leasing market rate suites and have fully executed leases. Breakthrough Greater Boston won the lottery for the below market rate suite; their lease is expected to be executed in coming days. The fourth suite is under serious consideration by a prospective tenant. CRA staff expect bring a vote to the CRA Board of Directors regarding the final office suite in May 2022.



CONTRACT DETAILS

1. Cooperation Agreement

The amended Foundry Cooperation Agreement:

- Increases the CRA's start-up costs and equipment purchases by \$500,00, from \$2 million to \$2.5 million to reflect the CRA Board vote of November 2020 allocating funds for Furniture Fixtures and Equipment (FFE). This allocation supports the acquisition of equipment for all maker spaces and will support the purchase of additional items that ensure the building is turnkey ready for the Foundry Consortium's role as operator.
- Increases the CRA's commitment to the Foundry construction and start up budget by \$3.5 million from \$7 million to \$10.5 million.
- Increases the City's commitment to the Foundry construction budget from \$24 million to \$35 million.
- Establishes that the CRA will receive the first \$200,000 of any construction project savings (equivalent to the Mass Cultural Council capital grant submitted by CRA staff on behalf of this project), and will receive 22.5% of all project savings after that value.
- Commits the City to funding electrical usage of common area and community use spaces, up to \$50,000 a year, with an ongoing escalation. Office tenants will pay for their own electrical usage. The City will also cover some waste disposal costs.

2. Foundry Consortium Sublease

- Five-year Term with the option to extend by five (5) years.
- All square footage within the Foundry Property falls under one of three categories: Community Reservation Space, Commercial Office Space, and Common Areas.
- The Foundry Consortium will promote and curate community programs to serve the mission of the Foundry (the Program). In order to carry out the Program, the Foundry Consortium has full access to the Premises defined as Community Reservation Space and the Furniture, Fixtures and Equipment provided by the City and the CRA.
- The Foundry Consortium is responsible for management and maintenance of entire Foundry Property.
- There is no rent due to the CRA from the Foundry Consortium.
- The CRA will create and hold Operating and Capital Reserve accounts in accordance with its Master Lease with the City of Cambridge.

- The CRA will lease office space and use the income to support operating expenses via payment of the Management Fee to the Foundry Consortium, and support other Foundry related expenses in accordance with the Governing Documents.
- The CRA will pay the Foundry Consortium an annual Management Fee, informed by the annual budget that the Foundry Consortium provides to the CRA for approval.
- The CRA will provide the Foundry Consortium with \$100,000 in start up funds during Spring 2022 to support personnel expenses prior to the Foundry’s public opening.
- The Foundry Consortium may collect fees in exchange for providing Community Reservation Space to the public.
- The CRA reserves the right to use space at no cost for public meetings and events.
- Income collected from the property (whether by the CRA or Foundry Consortium) will be:
 - (a) used to support the Program;
 - (b) invested in additional improvements to the Property to support the Program;
 - (c) used to pay administrative costs of the Foundry Consortium and CRA in managing its responsibilities under the Governing Documents; or
 - (d) deposited in the Reserve Fund accounts.
- The Foundry Consortium can make “minor” improvements (as defined in the sublease) without CRA approval; other improvements must first gain CRA approval, and potentially City approval.
- Improvements may be paid for by the Capital Reserve, subject to CRA and, in some circumstances, City of Cambridge approval.
- The CRA will pay any real estate taxes levied. CRA staff are submitting requests for tax abatements to the extent permitted by law. Taxes are expected on the commercial/office space portion of the building.
- The Foundry Consortium must maintain insurance levels as defined in the sublease.
- The CRA and City will have access to any part of the Property and Premises at any time in response to an emergency and at other reasonable times to examine, inspect and protect the Premises and the Property.
- If Foundry Consortium fails to meet its obligations under the sublease, CRA may issue a notice and Foundry Consortium has 90 days to develop Corrective Action Plan.
- Both parties agree to conduct direct dispute resolution and mediation prior to more serious action if there are disputes (other than the Foundry Consortium violating its obligations under the sublease).



MOTIONS

Cooperation Agreement Motion: Approving the Amendment to the Cooperation Agreement with the City of Cambridge and increasing the CRA contribution to the Foundry construction project by \$3.5 million.

Sublease Motion: Authorizing the Executive director and Chair to negotiate the Sublease and Management Agreement with the Foundry Consortium in the form substantially presented to the Board.

ATTACHMENTS

Attachment A: Cooperation Agreement Amendment

Attachment B: Sublease for Foundry Consortium (near final draft)



CAMBRIDGE
REDEVELOPMENT
AUTHORITY

Attachment A
Cooperation Agreement Amendment

FIRST AMENDMENT TO COOPERATION AGREEMENT ("AMENDMENT")
BETWEEN THE CITY OF CAMBRIDGE AND THE CAMBRIDGE REDEVELOPMENT
AUTHORITY FOR THE REDEVELOPMENT OF THE FOUNDRY BUILDING

The **Cambridge Redevelopment Authority** ("CRA") and the **City of Cambridge** ("City") (collectively, the "Parties") hereby agree to the following amendments to the Cooperation Agreement related to the design, construction and operation for the redevelopment of the City-owned foundry building at 101 Rogers Street, Cambridge, Massachusetts (the "Foundry") executed by the Parties as of December 14, 2017 (the "Foundry Cooperation Agreement" or the "Agreement"). The agreements made in this Amendment shall be effective as of April __, 2022 (the "Effective Date").

RECITALS

1. The Parties acknowledge that they have executed the Agreement as of December 14, 2017 and have thereafter worked diligently toward matters concerning the design, construction and future operations (collectively, the "Redevelopment") of the Foundry.
2. The Agreement sets forth details of roles and responsibilities of each Party with respect to the Redevelopment of the Foundry, including financial contributions toward the Redevelopment.
3. On October 21, 2020, the City notified the CRA that the total cost of the Redevelopment is estimated at \$45,500,000, an increase over the costs anticipated at the time the Cooperation Agreement was executed
4. As a result of the increases in the estimated cost of the Redevelopment, the City has agreed to increase the City's Project Contribution and the CRA has agreed to increase the CRA's Project Contribution, and the Parties have agreed to confirm and amend certain other understandings set forth in the Agreement.

Consistent with that background and those understandings, the Parties agree as follows:

AGREEMENT

A. COST OF THE REDEVELOPMENT

1. The Parties agree that the current estimated costs of the Redevelopment and upon which their respective agreements are made and are further detailed in Exhibit A, which is incorporated into and made a part of this Amendment. To the extent any cost set forth in this Amendment differs from that represented in the Agreement, the cost as set forth in this Amendment shall control.

B. REVISED PROJECT CONTRIBUTIONS FROM THE PARTIES

1. The City's Project Contribution as detailed in Section A.4 of the Agreement is increased from \$24,000,000 to \$35,000,000, which, when added to the portion of the CRA's Project Contribution to be used during the Design and Construction Phase, the Parties anticipate will be sufficient to complete the Design and Construction Phase of the Redevelopment.
2. The CRA's Project Contribution as detailed in Section A.4.b of the Agreement, is increased from \$9,000,000 to \$13,000,000, including the Design and Construction Phase (\$10.5 million) and the Operations Phase (\$2.5 million) of the Redevelopment.
3. Consistent with the requirements of Section B.11 of the Agreement, the City acknowledges its receipt of \$2 million for the CRA's Project Contribution toward Design Services as of the Effective Date. The remainder of CRA's contribution to the Design and Construction Phase costs, totaling \$8.5 million, shall be due to the City not later than June 30, 2022.
4. By its execution of this Amendment, the CRA confirms its agreement that the portion of the CRA's Project Contribution to be contributed toward the Operations Phase (including start-up costs and equipment purchases) as set forth in Section A.4 of the Agreement has increased from \$2 million and now totals \$2.5 million. The Parties agree to the inventory of the furnishings and equipment needs of the Project and that these items will be assigned within the GMP, the City's FF&E budget, and the CRA's Project Contribution as detailed in Exhibit B.
5. By the execution of this Amendment, the Parties agree that "Fit-Out Project", as that term is defined in the Agreement shall be amended and restated as follows:

Fit-Out Project -- The interior finishing, furnishing, and equipping of sub-tenant space at the Foundry including Soft Costs and Design costs associated therewith. The scope and cost of the Fit-Out Project shall be established by the 100% Construction Drawings prepared by Cambridge Seven Associates dated June 1, 2020 and incorporated by reference herein.
6. As detailed in Sections B.11 and B.12 of the Agreement, the City confirms its obligation to pay for the costs of the Soft Costs, the Design, the Core and Shell Project, and the Fit-Out Project, which together comprise the Design and Construction Phase of the Redevelopment, less the CRA's Project Contribution.
7. The City agrees to meet together with the CRA and the City's design and construction team on a monthly basis to discuss progress in the Construction Phase and to prepare for the Operations Phase.

C. CONSTRUCTION PHASE OPERATIONS; COST SAVINGS

1. The Parties acknowledges that, pursuant to Section B.9 of the Agreement, the Fit-Out Project is being completed by the City as a part of the Core and Shell Project. The Core and Shell Project and the Fit-Out Project are referred to in this Amendment as the “Construction Phase” of the Redevelopment.
2. In the event that the Parties determine, at the close out of the Construction Phase, that the total costs of the Redevelopment are less than the revised estimated costs of \$45.5 million (including amounts saved through value engineering and any unused contingency) (the “Project Savings”), then: (i) the CRA shall be paid the first \$200,000 of the Project Savings; and (ii) thereafter, 22.5% of the Project Savings shall be paid to the CRA, and the remainder shall be retained by the City.
3. In the event that either of the Parties are successful in obtaining additional Project Contributions from other financial sources, than those funds will be treated as Project Savings and will reduce the respective contributions of the Parties proportionally consistent with this Agreement.

D. OBLIGATIONS OF THE PARTIES WITH RESPECT TO BUILDING OPERATIONS

1. Consistent with Section C.1 of the Agreement, the CRA confirms its obligation to manage all operations functions as the tenant of the Foundry except to the extent detailed in this Section D.
2. Except to the extent it is included in the portion of the CRA’s Project Contribution to be used during the Design and Construction Phase, in no event shall the CRA have any financial, management, maintenance, capital or operations obligation with respect to any portion of Rogers Street. The CRA confirms that this limitation shall not include the obligation for clearing the sidewalk immediately adjacent to the Foundry of snow and ice, for which the CRA shall be responsible.
3. During the Term, the City shall, at no cost to the CRA, extend to the Foundry recycling services in the manner similar to that provided by the City to small commercial and non-profit entities.
4. The City shall be responsible for the proportional share of electrical expenses attributable to the public spaces and Community Users within the Foundry up to a maximum of \$50,000 per year during the Term, with an annual escalation of _____, The CRA will be responsible for the electrical expenses attributable to the commercial office tenant spaces, (as identified in Exhibit __) and for the electrical expenses attributable to the public spaces and Community Users within the Foundry that are above the \$50,000 per year maximum (plus annual escalation) payment that the City shall be responsible for during the Term.

E. OTHER, MISCELLANEOUS MATTERS

1. The Parties hereby confirm and ratify their respective agreements made in the Agreement, amended only by the terms of this Amendment.
2. The Parties hereby appoint the following persons to serve as their respective points of contact (“Points of Contact”) for working together with respect to the implementation of the Agreement: for the City, David Kale, Assistant City Manager for Fiscal Affairs; and for the CRA, Thomas Evans, Executive Director. All activities with respect to such matters be initially directed to the Points of Contact, who shall each then work with the respective Authorized Representatives of the Parties on such matters.
3. Capitalized terms used in this Amendment and not otherwise defined shall have the meanings ascribed to them in the Agreement.
4. To the extent that any term of this Amendment requires it, the Parties agree to use their respective best efforts to work toward an amendment to the Lease and to complete such amendment prior to the start of the Lease Term.

In consideration of the agreements set forth above, the City and CRA have respectively caused this Amendment to be duly executed as a sealed instrument as of the Effective Date.

City of Cambridge

Cambridge Redevelopment Authority

By:

By:

Louis A. DePasquale
City Manager

Thomas Evans
Executive Director

Approved as to Form:

Nancy E. Glowa
City Solicitor

EXHIBIT A

Summary of City and CRA Project Contributions

EXHIBIT B

Furniture and Equipment Inventory

EXHIBIT C

Building Electricity Responsibility Diagrams



CAMBRIDGE
REDEVELOPMENT
AUTHORITY

Attachment B
Sublease for Foundry Consortium (near final draft)

[DRAFT SUBLEASE]

SUBLEASE
by and between
CAMBRIDGE REDEVELOPMENT AUTHORITY
and
FOUNDRY CONSORTIUM, INC.
with respect to the Premises at
the Foundry Building
at 101 Rogers Street, Cambridge, MA
Dated as of
_____ , 2022

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FOUNDRY SUBLEASE

THIS INSTRUMENT is a SUBLEASE, dated as of [date] in which the Cambridge Redevelopment Authority (CRA) and the Foundry Consortium, Inc. (Operator) are the Parties, and which relates to the Property defined below, being located at 101 Rogers Street in Cambridge, Massachusetts, known as the Foundry.

ARTICLE 1 DEFINITIONS AND EXHIBITS

1.1 DEFINITIONS

The following constitute definitions of the terms used in this Sublease:

Additional Rent: Any sum that is owed to the CRA by the Operator pursuant to Sections 3.5.3 and 14.1 of this Sublease.

Applicable Law: All applicable Federal, state and local laws, ordinances, rules, policies and regulations (including, without limitation, the Environmental Laws, applicable requirements of the Americans with Disabilities Act of 1990, and regulations promulgated thereunder, the regulations of the Massachusetts Architectural Access Board, and the provisions of the Cambridge Zoning Ordinance).

City: The City of Cambridge.

City's Initial Work: Design and Construction Work undertaken by the City under the Special Permit, pursuant to the Cooperation Agreement.

City Manager: The City Manager of the City.

Commercial Office Space: The office areas of the Property on the 2nd and 3rd Floors of the Foundry to be leased by the CRA to office tenants at a mix of rates, including those comparable to other office rental rates in Kendall Square and East Cambridge and below market rates, and illustrated in Exhibit B.

Common Areas: Areas of the Property not assigned to any single user including entry ways, hallways, stairs, elevator, mechanical rooms, service areas, and restrooms, inclusive of Support Areas as illustrated in Exhibit B.

Community Reservation Space: The areas of the Property subject to use restrictions defined by the Governing Documents as areas including, but not limited to, spaces for visual arts, performance arts, education, maker spaces, kitchen programs, and community meetings, and the outdoor space, as illustrated in Exhibit B.

CRA: The Cambridge Redevelopment Authority, a body politic and corporate in the City of Cambridge, constituted under M.G.L. c. 121B, § 4 and the landlord under this Sublease.

CRA's Address: 255 Main Street, 8th Floor, Cambridge, MA 02142.

Environmental Laws: Any Federal, state and/or local statute, ordinance, bylaw, code, rule and/or regulation now or hereafter enacted, pertaining to any aspect of the environment or human health, including, without limitation, Chapter 21C, Chapter 21D, and Chapter 21E of the General Laws of Massachusetts and the regulations promulgated by the Massachusetts Department of Environmental Protection, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. §2061 et seq., the Federal Clean Water Act, 33 U.S.C. §1251, and the Federal Clean Air Act, 42 U.S.C. §7401 et seq.

Environmental Conditions: Any "disposal," "release" or "threat of release" of Hazardous Materials on, from or about the Premises or Property or storage of Hazardous Materials on, from or about the Premises or the Property, as those terms are defined in the Environmental Laws.

Execution Date: The last of the dates the Sublease is executed by the Parties as set forth on the signature page to this Sublease.

External Spaces: The portion of the Property outside the Foundry, not including the Roger Street roadway.

Force Majeure Event: A drastic change in circumstances affecting the Premises and brought about by war, strike, Act of God, or a catastrophic change in local economic circumstances.

Foundry: The building on the Property, including the roof.

Foundry Advisory Committee: A seven (7) person Committee created by the City Manager in consultation with CRA's Executive Director, as defined in the Governing Documents.

Governing Documents: The Master Lease, the Foundry Demonstration Project Plan, the Disposition Report, the August 2020 Planning Board Notice of Decision, and such other documents related to the use of the Property, all as agreed upon by City and CRA, copies of which will be provided to Operator and designated as Governing Documents.

Improvements: All alterations, additions, temporary, structural and permanent capital improvements and modifications to the Premises made by the Operator after the Occupancy Date. Improvements include Minor Improvements.

Management Fee: A payment from the CRA to the Operator for the management and operation of the Property consistent with the Mission and the needs of the Office Tenants in return for Operator's property management duties and obligations as detailed in Exhibit C.

Master Lease: The Lease of the Property executed between the City and the CRA on July 13, 2015 and amended on January 17, 2018 and by letter dated December 2, 2021, all included as a part of this Sublease as Exhibit A.

Minor Improvements: Interior decorations and other non-permanent modifications that do not materially affect the Property's circulation, life safety equipment, electrical, plumbing, mechanical or other systems. Minor Improvements shall not modify the external façade of the building, historic structures or walls, or public art or displays installed as a part of the City Improvements, within the Premises.

Mission: Defined in the Foundry Demonstration Project Plan to be “The Foundry will be a creative, innovative center that offers a collaborative environment with a mix of cultural, educational, manufacturing, and commercial uses. The renovated multipurpose building will be designed for flexibility and will be accessible, inclusive, and welcoming to the public. The activities within will be multigenerational and multicultural, providing a citywide and neighborhood resource that is financially sustainable for years to come.”

Occupancy Date: The date that is one day following substantial completion of the City’s Initial Work and issuance of a Certificate of Occupancy for the Premises.

Occupants: Collectively, the Operator, entities permitted to occupy the Premises through the Operator, and the Commercial Office Tenants.

Office Lease Revenue: Rents and other monies received from the Office Space Tenants for the Lease of the Commercial Office Space. The Office Lease Revenue shall be net of costs to the CRA for its operational costs, including brokerage fees and reserve funds, in administering the Foundry Project in accordance with the requirements of the Master Lease.

Office Space Tenants: Subtenants of the Commercial Office Space selected by the CRA.

Operating Expenses: All expenses incurred in the routine and normal upkeep of the Property during the Term. Operating Expenses include capital maintenance costing less than fifty thousand dollars (\$50,000) in the aggregate for each year of the Term.

Operator: The Foundry Consortium, being the nonprofit corporation, whose articles of formation were filed on September 26, 2019 for the management of the Foundry, and the tenant under this Sublease.

Operator’s Original Address: Foundry Consortium, 255 Main Street, Cambridge, MA 02142.

Parties: Collectively, the CRA and the Operator.

Permitted Uses: Uses consistent with the Governing Documents, the Program, and as further defined in this Sublease.

Pre-Lease Term: The period after the execution of the Lease extending through June 1, 2022, during which time the City shall conduct the City’s Initial Work during which the Operator will prepare for building operations effective as of the Occupancy Date.

Premises: The portion of the Property described in Exhibit B, including the Foundry, all Community Reservation Space, Common Areas, and External Spaces, and all personal property owned or Leased by the CRA and installed or placed in the Premises, but excluding all Commercial Office Space.

Program: The mix of uses of the Property, which shall be consistent with the Governing Documents, and shall be subject to Performance Measures and Reporting Requirements, as described in Section 5.2.

Property: The two parcels of land, together with the building and all improvements thereon, particularly described in a deed from ARE-MA Region No. 32, LLC and ARE-MA Region No. 35, LLC to the City of Cambridge dated January 9, 2012 and recorded with the Middlesex South District Registry of Deeds in Book 58257, Page 379, a copy of which is incorporated as Exhibit A, located at 101 Rogers Street and 180 Bent Street in Cambridge, Middlesex County, Massachusetts, together with rights of ingress and egress thereto. The Property is comprised of the Premises plus the Commercial Office Space.

Special Permit: Special Permit #PB-362 issued by the Planning Board pursuant to Article 19 of the Cambridge Zoning Ordinance.

Term: A five-year period beginning on the Occupancy Date and ending at 12:00 midnight on the date that is five years from the Occupancy Date.

1.2 ENUMERATION OF EXHIBITS

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| <u>Exhibit A</u> | The Master Lease |
| <u>Exhibit B</u> | Description of the Property and the Premises |
| <u>Exhibit C</u> | Operator’s Property Management Responsibilities |
| <u>Exhibit D</u> | Rules and Regulations |
| <u>Exhibit E</u> | Operator’s Performance Measures and Reporting Requirements |
| <u>Exhibit F</u> | Green Cleaning Standards |

[other exhibits to be added as necessary]

ARTICLE 2 PREMISES AND APPURTENANT RIGHTS

2.1 SUBLEASE OF PREMISES

2.1.1 Sublease. CRA hereby demises and subleases the Premises to Operator for the Term upon the terms and conditions hereinafter set forth, and Operator hereby accepts and leases the Premises from CRA upon such terms and conditions.

2.1.2 Subordination to the Master Lease. The provisions of this Sublease are subject to the provisions of the Master Lease. In the event of a conflict between the provisions of the Sublease and the Master Lease, the terms of the Master Lease shall control. The Operator specifically acknowledges the requirements of the Master Lease which may give to the City certain specific approval rights with respect to the actions of the Operator pursuant to this Sublease. More specifically, Operator acknowledges that the Master Lease requires City approval for certain structural Improvements to the Property.

2.1.3 Third Party Agreements. The Operator may utilize the Premises consistent with this Sublease and the Governing Documents for the Permitted Uses and may enter into license agreements with third parties to utilize the Premises for the Permitted Uses, subject in every respect to the requirements of this Sublease, the Governing Documents, and agreed upon protocols as required in the Master Lease.

2.14. Operator Right to Receive Rent and Other Revenue; Use of Revenue. Operator shall negotiate and shall have the right to receive rent or other fees in exchange for providing use of the Community Reservation Space in accordance with the Performance Measures and Reporting Requirements identified in Section 5.2. All revenue received by the Operator for the use of, or otherwise in connection with, the Premises shall be used only on costs related to the management or maintenance of the Premises and only in accordance with the requirements of this Sublease.

2.2 ACCESS RIGHTS

This Sublease is subject to the rights of the Commercial Office Space tenants, each of which shall be entitled to full access to and shared use of the Common Areas at all times. Operator shall make arrangements to provide Commercial Office Space tenants access to the Community Reservation Space consistent with the Mission.

2.3 RESERVED RIGHTS BY THE CRA

The CRA reserves the right, either on its own behalf or on behalf of public and civic entities, upon appropriate notice to Operator and subject to Operator's reasonable scheduling requirements, to use portions of the Premises at no cost for public meetings and similar functions, which shall be a Permitted Use under this Sublease; provided, however, that all such meetings and functions shall be open to members of the general public.

2.4 CONDITION OF THE PROPERTY ON THE OCCUPANCY DATE

2.4.1 Completion of the City's Initial Work. Prior to the start of the Term, the CRA agrees to cause the City to complete the City's Initial Work in compliance with the terms and conditions of the Special Permit, which shall be completed in a manner reasonably acceptable to Operator. The CRA, with the City, agrees to purchase and complete the installation of equipment for the Community Reservation Space as set forth in Exhibit B.

2.4.2 Furnishings and Equipment. The CRA shall also cause certain furniture, fixtures and equipment to be installed at the Premises for use by the Operator and the general public during the Term, all of which shall be leased to Operator as a part of this Sublease, and shall remain owned by the CRA. The Operator is responsible for the care, inventory, repair, and, to the extent necessary, replacement of the furniture, fixtures and equipment during the Term, all of which shall be in good condition and repair, reasonable wear and tear excepted, at the end of the Term.

2.4.3 Operating Supplies and Equipment. The CRA shall also cause certain maker space equipment and operating supplies and equipment, be provided at the Premises for use by the Operator and the general public on the Occupancy Date.

2.4.4 Acceptance by Operator. On the Occupancy Date, the Operator shall provide to the CRA a statement confirming that it accepts the condition of the furniture, fixtures and equipment, the Property and the Premises in their then “as is” condition and otherwise compliant with the requirements of this Sublease.

ARTICLE 3 OPERATIONS AND PROPERTY MANAGEMENT

3.1 CONDITION OF THE PROPERTY DURING THE TERM

Throughout the Term, the Operator shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted. This Sublease serves as the Operator Agreement referred to under the Master Lease. Operator shall surrender the Premises, at the end of the Term, in such condition.

3.2 PERMITS

During the Term, the Operator shall obtain all permits, licenses and other approvals related to the occupancy and management of the Property required by Applicable Law. Operator acknowledges that the Property will constitute a “Place of Public Accommodation” within the meaning of the Americans With Disabilities Act of 1990.

3.3 OFFICE LEASES AND MANAGEMENT

Excluded from the Premises is the Commercial Office Space. The CRA reserves the right to sublease the Commercial Office Space to the Office Space Tenants, and agrees that Office Lease Revenue shall be used to cover a portion of the Operating Expenses, including, but not limited to, payment of the Management Fee to the Operator. The CRA agrees to use its commercially reasonable best efforts to keep the Commercial Office Space continuously occupied during the Term and will coordinate its selection of the Office Space Tenants with the Operator prior to selection. While the CRA agrees to use its reasonable efforts to select Office Space Tenants that are aligned with the Mission, selection of the Office Space Tenants shall be in the sole discretion of the CRA; provided, however, if the Parties determine that leasing of the Commercial Office Space shall be an Operator responsibility, selection of the Office Space Tenants shall be in the sole discretion of the Operator.

3.4 PROPERTY MANAGEMENT RESPONSIBILITIES

During the Term, Operator shall be responsible for management of the Property and shall be responsible for the routine and normal upkeep of the Property and the furnishings and equipment used by Tenant in accordance with Section 2.4.2 above, including the management of daily building operations in all areas of the Property as detailed in Exhibit C. For the purpose of efficiency, the Parties, through the agreement by the Executive Director of the CRA and the Executive Director of the Operator, agree that modifications to Exhibit C may be made without the need for an amendment to this Sublease; provided, however, that all such modifications shall be in writing and otherwise be consistent with the requirements of this Sublease.

(a) Operator shall be responsible at its own cost for any repair to the Property or to the furnishings and equipment made necessary by reason of damage caused by any act or neglect of Operator, or its employees, agents, contractors, invitees or sublessees (including any damage by fire or other casualty arising therefrom).

(b) If repairs are required to be made by Operator pursuant to the terms of this Sublease, CRA may demand that Operator make the same forthwith. In the event Operator refuses or neglects to commence such repairs within thirty (30) days of its receipt of such notice and to thereafter diligently prosecute such repairs to completion, the CRA may (but shall not be required to do so) make or cause such repairs to be made at the Operator's expense, and shall not be responsible to Operator for any loss or damage whatsoever. The CRA shall be under no obligation to provide advance notice of such repairs prior to exercising this self-help right in the event of an emergency, but shall be required to give notice of such repairs within a reasonable time after commencement thereof.

3.5 IMPROVEMENTS BY OPERATOR

3.5.1 General Requirements.

(a) Operator shall make no Improvement to the Property without the CRA's prior written consent, which consent shall not be unreasonably withheld or delayed with respect to non-structural Improvements that do not materially affect the Property's electrical, plumbing, mechanical or other systems, or modify historic architectural elements of the building, but may be withheld in the CRA's sole discretion with respect to all other types of Improvements. All Improvements that are determined to be structural and permanent capital improvements to the Property are subject to the further approval of the City.

(b) Notwithstanding the foregoing, the CRA's consent shall not be required for any Minor Improvement.

(c) Improvements, including Minor Improvements, may be funded by the Capital Reserve Fund, subject, to the CRA's prior approval in each instance. Disbursements from the Capital Reserve Fund for Improvements to the Community Reservation Space are also subject to the further approval of the City.

(d) Operator acknowledges that, to the extent that any Improvement involves the expense of public funds in excess of the statutory thresholds in the Commonwealth's public procurement law, the design and construction of the Improvement shall be subject to the applicable requirements of such procurement law.

(e) Prior to the start of any Improvement, Operator shall (i) ensure that all Improvements are designed and will be constructed in compliance with Applicable Law; (ii) deliver to CRA a statement of the names of all its contractors and assurances pertaining to compliance with this Sublease satisfactory to CRA; and (iii) cause such contractors to carry insurance as required by this Sublease.

(f) All Improvements shall: (i) be performed in a good and professional manner and in compliance with all Applicable Laws; (ii) be made either at Operator's sole cost and expense or shall utilize the Capital Reserve at such times and in such a manner as CRA may from time to time reasonably designate; and (iii) become part of the Premises and the Property (as applicable) unless CRA notifies Operator in writing, at the time that CRA approves the Improvements that Operator must remove the same upon the expiration or earlier termination of the Term and restore the Premises or the Property (as applicable) to the condition existing immediately prior to the commencement of such Improvement. Operator may ask, at the time CRA approves such work, for the CRA to specify that such Improvements may be removed at the termination of the Term, which the CRA may specify in its sole discretion.

(g) The Operator shall hire or otherwise retain, subject to the CRA's prior written approval, an owner's representative to oversee the completion of all Improvements; provided, however, that Operator may complete a Minor Improvement without hiring or otherwise retaining an owner's representative with the CRA's prior reasonable approval.

(h) The Operator may, subject to the CRA's prior written approval, permit Improvements to be completed by the Office Space Tenants, in which case such Improvements shall be subject to the requirements of this Sublease and the applicable Office Space Tenant's sublease.

(i) The CRA reserves the right to make Improvements at the Property, each of which shall be completed in cooperation with and upon sufficient advance notice to the Operator. The sufficiency of notice is to be determined based upon (i) the type and magnitude of the Improvement, (ii) the benefit of the Improvement to the Operator and the Program, and (iii) the length and extent of disruption to the operation of the Program. Any disruption to the operation of the Program shall be taken into consideration when evaluating the Operator's performance under the Sublease, including, without limitation, the provisions of Section 5.2 and Exhibit E.

3.5.2 Obligations of Contractors. Prior to such time as any contractor commences any Improvement, such contractor (and any subcontractors) shall furnish to the CRA a written statement acknowledging that its work related to the Improvement is subject to the requirements of this Sublease. Failure of such contractor or subcontractor to provide such notice shall not be deemed a Terminable Default of Operator.

3.5.3 Payment for the Improvements. Operator agrees to pay promptly when due the entire cost of any Improvement done on behalf of Operator, its agents, employees or independent contractors, and not to cause or permit any liens for labor or materials performed or furnished in connection therewith to attach to all or any part of the Property or the Premises, and immediately to discharge any such liens which may so attach.

(a) If, notwithstanding the foregoing, any lien is filed against all or any part of the Property or the Premises for work claimed to have been done for, or materials claimed to have been furnished to, Operator or its agents, employees or independent contractors, Operator, at its sole cost and expense, shall cause such lien to be dissolved promptly after receipt of notice that such lien has been filed, by the payment thereof or by the filing of a bond sufficient to accomplish the foregoing.

(b) If Operator shall fail to discharge any such lien, CRA may, at its option, discharge such lien and treat the cost thereof (including attorneys' fees incurred in connection therewith) as Additional Rent payable upon demand, it being expressly agreed that such discharge by CRA shall not be deemed to waive or release the default of Operator in not discharging such lien. Operator shall indemnify and hold City and CRA harmless from and against any and all expenses, liens, claims, liabilities and damages based on or arising, directly or indirectly, by reason of the making of any Improvements by or on behalf of Operator to the Property, which obligation shall survive the expiration or termination of this Sublease.

3.5.4 Other Obligations With Respect to Improvements.

(a) In the course of the undertaking of the Improvements, Operator agrees not to employ or permit the use of any labor or otherwise take any action which might result in a labor dispute involving personnel providing services at the Property pursuant to arrangements made by the CRA or City.

(b) Not later than six (6) months following the completion of any Improvement, Operator shall provide as-built plans of the Improvement to the CRA and the City in a format acceptable to each Party.

3.5.5 Additional Insurance For the Improvements.

(a) During the undertaking of the Improvements, in addition to the insurance required under Article 9, below, Operator shall require its contractors performing such construction to carry:

i. Commercial general liability insurance in an amount not less than \$1,000,000 combined single limit bodily injury and property damage per occurrence and \$2,000,000 annual aggregate limit per location (or such higher limits as may be reasonably agreed upon by CRA and Operator from time to time);

ii. Automobile liability insurance in an amount not less than \$1,000,000 combined single limit bodily injury and property damage per accident;

iii. The statutory limits of workers' compensation and employers' liability insurance in amounts adequate to satisfy the umbrella insurance and underlying requirements to protect City's interest and that of CRA, contractors and subcontractors during the course of the construction; and

iv. Builder's risk coverage against loss or damage on all work caused to be performed by Operator in an amount equal to the value of the total replacement costs of the completed Improvements to be made to the Property, plus the value of subsequent contract modifications and the cost of materials supplied or installed by others, comprising the total value for the entire project on site on a replacement cost basis without optional deductibles.

(b) Such coverage shall be written on an all risks basis or equivalent form and shall include, without limitation, insurance against perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, terrorism, collapse, earthquake, flood, windstorm, false work, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and expenses and CRA's loss of use in a mutually agreed upon amount, required as a result of an insured loss. This policy shall include transportation and stored materials coverage in an amount equal to the value of the stored materials at the project site only as required below.

(c) All such insurance policies shall name the City and CRA as additional insureds on a primary non-contributing basis, shall be evidenced by certificates of insurance provided to the City and the CRA, and copies of all such policies shall be provided upon request to the CRA and the City.

3.5.6 Operator's Right To Install Personal Property.

All articles of personal property and all business fixtures, machinery and equipment and furniture owned or installed by Operator solely at its expense within the Premises ("Operator's Removable Property") shall remain the property of Operator and may be removed by Operator at any time prior to the expiration of the Term; provided, however, that to the extent the installation or removal of Operator's Removable Property involves the undertaking of an Improvement, Operator shall comply with the requirements of this Lease; and provided, further, that Operator shall, at its expense, repair any damage to the Property caused by the installation or removal of any of Operator's Removable Property. CRA and Operator may, by mutual agreement, agree that CRA may purchase Operator's Removable Property.

ARTICLE 4 OCCUPANCY DATE AND TERM

4.1 TERM

The Term shall begin on the Occupancy Date and shall end at 12:00 midnight on the date that is five years from the Occupancy Date.

4.2 POTENTIAL EXTENSION OF TERM

Beginning at the end of the fourth (4th) year of the Term, CRA agrees, on the condition that the Operator continues to meet the Performance Measures identified in Section 5.2 below and is otherwise in compliance with the terms of this Sublease, that Operator shall have the right to extend the Term for an additional five (5) year period on mutually agreeable terms. Not later than one hundred eighty (180) days prior to the end of the Term, the Parties shall begin good faith negotiations with respect to such option to extend the Term.

ARTICLE 5 USES OF PREMISES

5.1 PERMITTED USES

Operator agrees that the Premises shall be used and occupied only by the Operator, its authorized tenants (as approved by the CRA), licenses, and program participants, for Permitted Uses, as provided in and consistent with the Governing Documents, the Program, and with the Rules and Regulations included as a part of this Sublease as Exhibit D.

5.2 PERFORMANCE MEASURES AND REPORTING REQUIREMENTS

The Operator shall use its commercially reasonable best efforts to keep the Premises continuously occupied during the Term. With input from the Foundry Advisory Committee, the CRA will play a role in monitoring operations at the Property consistent with the Governing Documents and with the Performance Measures and Reporting Requirements contained in Exhibit E, with a specific emphasis on the programming and uses of the Premises.

(a) The Operator shall annually submit to the CRA and the Foundry Advisory Committee an annual report summarizing the Program and other activities undertaken at the Property during the prior year and an annual business plan forecasting goals for the next succeeding year. The annual report and annual business plan (collectively, the “Annual Filings”) shall be submitted on a schedule and in a format to be agreed upon by the Parties. The Annual Filing shall include an assessment of the capital needs of the Premise, including CRA-owned equipment, and include relevant updates to the plan documents developed during the Pre-lease term under the Memorandum of Understanding between the Parties.

(b) The operations and finances of the Property shall be detailed by the Operator in the Annual Filings, and shall be forecasted by the Operator in the annual business plan. Additionally, an update of finances shall be reported to the CRA not less than quarterly, and shall be subject to quarterly review by the CRA and annual audit by the City.

(c) The use of the Premises will be evaluated every year during the Term by CRA in consultation with the Foundry Advisory Committee (the “Annual Evaluation”). Operator shall adhere to the Performance Measures and Reporting Requirements contained in Exhibit E. The CRA and the Foundry Advisory Committee will evaluate the use of the Premises based upon the responses to the Reporting Requirements and the Performance Measures. The evaluation of the Performance Measures shall also include a review of the Annual Filings that the Operator will submit to the Foundry Advisory Committee, and the CRA.

(d) If CRA, upon advice from the Foundry Advisory Committee or by other means, determines that, based on the Annual Evaluation, that the then-current use of the Premises fails to comply with the requirements of this Sublease, CRA shall inform Operator and present Operator with a list of suggested corrective measures to be used prior to the next Annual Evaluation (together, the “Notice of Deficiency”). Upon receipt of the Notice of Deficiency, Operator shall, within 90 days, present to CRA a plan to begin to correct the deficiencies identified in the Notice of Deficiency (“Corrective Action Plan”) and to continue to prosecute such corrections such that they are complete, which shall in no event be later than the start of the next Annual Evaluation.

(e) Failure to present a Corrective Action Plan acceptable to the CRA within 90 days of the CRA’s written request for modifications and revisions shall constitute a Terminable Default under this Sublease. The CRA may request modifications and revisions to the Corrective Action Plan, and may in its reasonable discretion extend the deadline if good faith efforts to produce an acceptable Corrective Action Plan are underway.

(f) At each Annual Evaluation, Operator shall report on progress made on any then existing Corrective Action Plan and CRA, with advice of the Foundry Advisory Committee, shall evaluate the use of the Premises based upon the Performance Measures. If the use of the Premises continues to fail to materially comply with the requirements of this Section 5.2, then CRA may, in its sole and absolute discretion declare a default of this Sublease as provided in Section 12.1.

ARTICLE 6 PROHIBITION AGAINST ASSIGNMENT AND SUBLETTING

6.1 SUBLEASES

Operator covenants and agrees that neither this Sublease nor the term and estate hereby granted, nor any interest herein or therein, will be assigned, mortgaged, pledged, encumbered or otherwise transferred, whether voluntarily, involuntarily, by operation of law or otherwise, and that neither the Premises nor any part thereof will be encumbered in any manner by reason of any act or omission on the part of Operator, or used or occupied or permitted to be used or occupied, by anyone other than Operator without prior written approval of CRA, which approval may be withheld in the CRA sole discretion.

6.2 LICENSE AGREEMENTS

Notwithstanding the above, the Operator shall be permitted to enter into short-term license agreements for the use of portions of the Premises consistent with the Governing Documents, and in accordance with protocols subject to review by the City.

ARTICLE 7 FINANCIAL MATTERS

7.1 RENT

The Operator shall be under no obligation to pay rent to the CRA for the use of the Premises; provided, however, that Operator shall pay to the CRA such monies deemed “Additional Rent” as may be owned in accordance with Sections 3.5.3 and 14.1 of this Sublease.

7.2 RESERVE FUNDS

The CRA shall create and manage: (i) an Operating Reserve Fund account which shall have policies governing when and how it may be drawn down during the Term in order to support the Property’s ongoing building operations, and programming goals as specified in and consistent with the Governing Documents (the “Operating Reserve Fund”); and (ii) a Capital Reserve Fund account which shall have policies outlining when and how it may be drawn down during the Term in order to support the Property’s capital maintenance as specified in and consistent with the Governing Documents (the “Capital Reserve Fund”, and collectively, with the Operating Reserve Fund, the Reserve Funds).

(a) CRA agrees to expend funds from the Capital Reserve Fund for the Property’s capital maintenance in a manner specified in and consistent with the Governing Documents. CRA shall not be required to make any improvements or repairs to the Property other than as expressly set forth in Article 3.5 above and this Article 7. Decisions regarding use of the Capital Reserve Fund shall be made by the CRA in consultation with the Operator subject to and consistent with the Governing Documents, and any work paid for by the Capital Reserve Fund shall be coordinated with the Operator in every respect.

(b) CRA may, but shall be under no obligation to, expend funds from the Operating Reserve Fund in a manner specified in and consistent with the Governing Documents in its sole and absolute discretion.

7.3 PAYMENT TO OPERATOR OF THE MANAGEMENT FEE

CRA shall pay to Operator the Management Fee, in advance, commencing on the first day of the Term and payable thereafter on the first day of the quarter (four times each year during the Term) for each quarter of the Term. A one hundred thousand dollar (\$100,000) advance on the Management Fee will be provided on the Execution Date. The Management Fee shall be established by agreement of the Parties not later than thirty (30) days prior to the first day of each year of the Term and shall be adjusted annually based on projected Office Lease Revenue, other revenues expected to be received for the use of the Premises, and the availability of the Operating Reserve Fund. The Management Fee shall be paid to Operator at the Foundry, or at such other place as Operator shall from time to time designate by notice, in lawful money of the United States.

7.4 OPERATOR’S ANNUAL OPERATING BUDGET

As of the Occupancy Date and not later than sixty (60) days prior to the start of each subsequent year of the Term, the Operator shall prepare for presentation to the Foundry Advisory Committee and approval by the CRA an annual budget for the management and operation of the Property, which presentation and approval shall be a pre-condition of the CRA’s obligation to

pay to Operator the Management Fee. In the event Operator establishes to the CRA's reasonable satisfaction that: (i) the Management Fee plus rent, fees and other income raised by Operator from the use or occupancy of the Premises, are insufficient to support the Program, including Operating Expenses; and (ii) it has exhausted its reasonable ability to raise additional funds or cut expenses from its budget, the Operator may request that the CRA draw from the Operating Reserve Fund to support the Program.

In connection with the development of the budget, the Parties acknowledge that all revenue received from the Property shall be: (a) used to support the Program, including Operator's reasonable administrative costs; (b) used for additional improvements to the Property to support the Program; (c) used to pay administrative costs of the CRA in managing its responsibilities under the Governing Documents; or (d) deposited in the Reserve Funds accounts. Such revenues shall be accounted for by the CRA, and a document detailing this data will be provided to the Operator on at least an annual basis. Such revenues shall also be subject to review by the City in its annual audit of the Property

7.5 UTILITY PAYMENT RESPONSIBILITIES

The Operator shall be fiscally and administratively responsible for the payment of all utilities of any kind used and consumed in or attributable to the Property (including, without limitation, waste removal, telephone services and other telecommunications services and charges) directly to the appropriate provider, except for: (i) electrical utilities related to the Property, which shall be paid by the CRA, with certain costs passed on to Office Space Tenants and the City; and (ii) certain utility expenses paid for by the City in accordance with the Master Lease and Cooperation Agreement.

(a) Operator shall be responsible for assessing payments due of all utilities based on actual usage and making timely payments to the utility. As part of the City's Initial Work, it will install a sub-metering system and electricity used and consumed in or attributable to the Premises will be measured by separate sub-meters. The CRA will reimburse the Operator for electrical expenses.

(b) Operator agrees in its use of the Premises: (i) not to exceed a commercially reasonable electricity demand for the Permitted Use of the Premises; (ii) that its total connected lighting load will not exceed, in conjunction with the other lighting load in the building, the maximum from time to time permitted under Applicable Law, and (ii) commit to conserve energy in keeping with the LEED Gold requirements of the Special Permit.

(c) The CRA shall provide cold water (at temperatures supplied by the City of Cambridge) for drinking, lavatory and toilet purposes. CRA shall install, at its sole cost and expense, a water meter at the Premises and thereby measure Operator's water consumption for all purposes.

ARTICLE 8 REAL ESTATE TAXES

During the Term, the CRA shall be responsible to pay such taxes on the Property as are due and payable pursuant to Chapter 59 of the Massachusetts General Laws. The Operator shall

assist in the filing of any tax exemption applications, that savings from which will be made available for the Program.

ARTICLE 9 INDEMNITY AND PUBLIC LIABILITY INSURANCE

9.1 INDEMNITY

(a) To the fullest extent permitted by law, Operator shall indemnify, defend and hold harmless the CRA, including its board members, officers, directors, controlling entities, contractors, mortgagees, employees, consultants, attorneys, agents, representatives, parent companies, subsidiaries, members, partners, shareholders and affiliates and all of their respective successors and assigns (collectively the "CRA Indemnified Parties"), from and against all claims, liabilities, damages, losses, penalties, recoveries, suits, judgments, executions, costs and expenses, including but not limited to attorneys' or injunction-related fees, arising out of or resulting from (or alleged to be arising out of or resulting from) this Sublease, and the acts or omissions of, the Operator or anyone for whom Operator is responsible, regardless of negligence, and regardless of whether such claim, damage, loss or expense is caused in part by an Indemnified Party.

(b) Operator shall require all of Operator's subcontractors, vendors, agents and other hired parties in any way related to the performance of services under this Agreement, to provide indemnification in favor of the Indemnified Parties, which shall offer no less protection to the Indemnified Parties than indemnification from the Operator.

(c) "Indemnified Parties" as used in this Sublease includes any parties entitled to indemnification, including but not limited to the CRA and the City of Cambridge, together with all trustees, board members, public officials, officers, directors, controlling entities, contractors, landlords, mortgagees, employees, volunteers, interns, consultants, attorneys, agents, representatives, parent companies, subsidiaries, members, partners, shareholders and affiliates of either of them and all of their respective successors and assigns.

9.2 INSURANCE

(a) General Requirements. Operator shall maintain the following insurance throughout the Term, and Operator shall cause its subcontractors, vendors, agents and other hired parties to comply with these insurance requirements. Operator shall provide Acord certificate(s) demonstrating such insurance at least 10 days prior to commencement of the operations contemplated in the Sublease and prior to policy expiration. Operator waives, and Operator shall cause its subcontractors, vendors, agents and other hired parties to waive, all subrogation and recovery rights in favor of Indemnified Parties. Additionally, Operator's insurance policies shall waive, or be endorsed to waive, rights of recovery by subrogation, regardless of negligence, in favor of the Indemnified Parties. This Section 9.2 shall survive the termination and/or expiration of this Sublease.

(b) Additionally Insured Parties and Other Policy Requirements. All such policies shall: (i) name the Indemnified Parties as additional insureds on a form

no less broad than CG 20 38 and CG 20 37; (ii) act as primary coverage to Indemnified Parties' insurance, and not call for contribution from Indemnified Parties' insurance; (iii) provide 30 days' cancellation notice to the CRA; (iv) provide coverage from reputable insurers authorized to do business in the jurisdiction in which this Sublease will be performed, with current AM Best ratings of not less than A- VIII; and (v) provide limits no less than as indicated, which may be provided through primary and umbrella policies. The CRA may from time to time require additional insurance or that the amount of the insurance requirements, to be provided and kept in force by Operator, be reasonably increased.

- (c) General Liability Insurance. Operator shall purchase and maintain commercial general liability written on an occurrence basis, and such coverage shall be no less broad than the most recent version of ISO CG 00 01. No amending or exclusionary endorsements material to Operator's obligations in the Agreement may be attached. If Operator sells products or performs services for customers, products/ completed operations coverage shall be maintained for 6 years after the expiration or termination of the Agreement. Throughout the 6-year period, Operator shall submit renewal insurance certificates, including the additional insured endorsements, to evidence coverage is being maintained. Limits may be provided through a combination of primary and umbrella policies and shall not be less than the following:

\$3,000,000 each occurrence
 \$3,000,000 personal/advertising injury
 \$3,000,000 products/completed operations aggregate
 \$3,000,000 general aggregate per location

For work performed on premises, coverage must extend to "Certified" and Non-"Certified" acts of terrorism. For injury of offense caused by Operator's harassment or a violation of a third party's civil rights, proof of coverage must be in place either under this coverage form or through a coverage endorsement granted through Employment Practices Liability or Director's & Officer's Liability Insurance.

- (d) Automobile Liability. For any vehicles used by Operator in business related to the Premises, Operator shall purchase and maintain commercial automobile liability covering all owned (if any), non-owned and hired automobiles. Coverage shall be no less broad than as provided under symbol 1 (or symbols 2, 8 and 9), or if Operator does not own automobiles, symbols 8 and 9. The limit shall not be less than \$1,000,000 combined single limit.
- (e) Workers' Compensation and Employers' Liability. The Operator shall purchase and maintain statutory workers compensation coverage compliant with the jurisdiction in which the Agreement will be performed, and with any jurisdictions in which workers are residents, or through which they may travel during the

Term. If not unlimited by statutory endorsement, employers liability limits shall not be less than the following (with Umbrella liability coverage for claims in excess of these underlying limits):

\$1,000,000 each accident
 \$1,000,000 by disease-policy limit
 \$1,000,000 by disease-each employee

- (f) Excess/Umbrella Liability. Umbrella liability coverage in an amount not less than \$10,000,000 per occurrence. Umbrella liability coverage is to be in excess of the general liability, automobile liability and employers' liability requirements outlined above and such requirement shall be subject to reasonable modification based on market changes and insurance coverage standards generally applicable to commercial real estate similar in type, use and location as the Property.
- (g) Property and Equipment Breakdown Insurance.
1. Operator shall purchase and maintain property insurance on a "special form causes of loss" form (previously called "all risk") or its equivalent for the "Property" under management within this Sublease; improvements and betterments; installation property; equipment; data; tools; or other personal property at replacement cost. Coverage must extend to Earth Movement and Flood perils. Operator shall purchase business interruption and extra expense insurance covering the interruption of Operator's business for a period of at least 1 year.
 2. An Extended Period of Restoration of at least 180 days must apply to the period beyond the time that the damaged space is in a rentable condition but revenue is still not yet at the level immediately preceding the occurrence of damage. Coverage must afford the extra expense associated with Tenant Relocation and Move back.
 3. For any limitations in coverage associated with the enforcement of Ordinance or Law, Operator must elaborate as to the coverage limitations associated with the demolition expenses and the increased cost of construction.
 4. A Builder's Risk Policy may be required if either the CRA determines that the insurance required by this section is not sufficient for the exposure within work to be undertaken in accordance with the terms of this Sublease.
 5. Operator shall arrange to have the Equipment Breakdown (aka Boiler & Machinery) Policy coordinate with the Property insurer on a joint loss and to have the insurer provide jurisdictional inspection services at no additional cost.

- (h) Third Party Crime. Operator shall guarantee or ensure that any money, securities or other property that is in the care, custody or control of one of its employees will compensate the Indemnified Parties for any losses incurred.
- (i) Pollution Liability. To the extent Operator is authorized to disturb or introduce pollutants onto the Premises as identified by the U.S. Environmental Protection Agency and/or the Massachusetts Department of Environmental Protection, Operator shall purchase and maintain insurance for pollution legal liability applicable to bodily injury; property damage, including loss of use of owned and non-owned damaged or stigmatized property; on and off-site cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims; all in connection with any loss arising from this Sublease. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, soot, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants. If coverage is written on a claims-made basis, any retroactive date shall be no later than the effective date of the Agreement; and continuous coverage will be maintained or an extended discovery period exercised for 8 years beginning from the time that work under the Agreement is complete. Operator shall submit either (i) renewal insurance certificates to evidence coverage is being maintained throughout the 6-year period; or (ii) a 6-year extended reporting period endorsement. Limits shall not be less than \$10,000,000 per loss and \$10,000,000 annual aggregate.
- (j) Professional Liability. Due to Operator's property management responsibilities, Operator shall purchase and maintain professional liability insurance appropriate to Operator's liability for a professional error, act, or omission arising out of Operator's services as a Property Manager. If coverage is written on a claims-made basis, any retroactive date shall be no later than the effective date of the Sublease; and continuous coverage shall be maintained or an extended discovery period exercised for 6 years beginning from the time that work under the Agreement is completed. Operator shall submit either (i) renewal insurance certificates to evidence coverage is being maintained throughout the 6 year period; or (ii) a 6-year extended reporting period endorsement. Limits shall not be less than \$5,000,000 per claim and \$5,000,000 annual aggregate.
- (k) Additional Provisions. Operator shall deposit with CRA a certified copy of the insurance binder (countersigned by the insurer) or evidence of insurance (in ACORD Form 28) or other proof satisfactory to the CRA and the City for each of the insurance policies that Operator is required to carry in compliance with its obligations under the Sublease and shall provide copies of all such insurance policies upon CRA's or City's request. Such insurance policies shall contain a provision that the insurer will not cancel or refuse to renew the policy, without first giving at least thirty (30) days prior written notice to CRA and the City. Failure to obtain and maintain the required insurance and failure to remedy such

within ten (10) Business Days after written notice by City or CRA shall constitute a Terminable Default of Operator, pursuant to Article 12, below.

9.3 OPERATOR'S RISK

Operator agrees to use and occupy the Premises and to use such other portions of the Property consistent with the requirements of this Sublease and the Governing Documents at Operator's own risk. Except to the extent that such claims arise from the acts of gross negligence or willful misconduct of City or CRA, or their agents or employees, neither City, CRA, nor City's or CRA's insurers shall have any responsibility or liability for any loss of or damage to the Property or to Operator's Removable Property. Operator shall carry "all-risk" property insurance on a "replacement cost" basis, insuring Operator's Removable Property and any alterations, additions or improvements installed by Operator pursuant to Section 4.2 or Section 5.5, to the extent that the same have not become the property of City, and other so-called improvements and betterments. The provisions of this Section 9.3 shall be applicable from and after the execution of this Sublease and until the end of the Term, and during such further period as Operator may use or be in occupancy of any part of the Premises.

9.4 INJURY CAUSED BY THIRD PARTIES

Except to the extent that such claims arise from the acts of gross negligence or willful misconduct of City or CRA, or their agents or employees, Operator agrees that City and CRA shall not be responsible or liable to Operator, or to those claiming by, through or under Operator, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the Premises adjacent to or connecting with the Premises or any part of the Property or otherwise. Operator hereby waives its rights and its insurer's rights of recovery against the City and CRA, and agrees to confirm such waiver on reasonable demand received from the CRA, for any loss or damage associated with liability occurring on or from the operation and completed operation associated with this Sublease.

9.5 WAIVER OF SUBROGATION

The CRA and Operator shall each procure an appropriate clause in, or endorsement on, any property insurance policy covering the Premises and personal property, fixtures and equipment located thereon and therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery in favor of either party, its respective agents or employees. Having obtained such clauses and/or endorsements, each party hereto hereby agrees that it will not make any claim against or seek to recover from the other or its agents or employees for any loss or damage to its property or the property of others resulting from fire or other perils covered by such property insurance.

ARTICLE 10 CITY AND CRA'S ACCESS TO PREMISES

10.1 INSPECTION

City, CRA, and their agents, employees, consultants and contractors may enter the Property at any time in response to an emergency and at other reasonable times upon reasonable

advance notice to Operator to examine, inspect and protect the Premises and the Property or to inspect the Premises for compliance with the requirements of this Sublease.

10.2 ACCESS

City and CRA shall have reasonable access at all times upon advance notice to Operator to all areas in the Property and Premises (including exterior walls, core corridor walls and doors and any core corridor entrances), including areas used for shafts, stacks, pipes, conduits, fan rooms, ducts, electric or other utilities, sinks or other facilities.

ARTICLE 11 CASUALTY

11.1 EVENT OF CASUALTY

(a) For the purposes of this section, “Event of Casualty” shall be defined as damage to or destruction of the Property caused by fire or other casualty, or any such damage to or destruction of the Property necessary to provide normal services and access to the Property.

(b) If an Event of Casualty occurs, Operator, after receipt of written notice thereof from CRA (the “CRA’s Notice of Casualty”), shall undertake to make repairs and restorations with reasonable diligence, unless this Sublease has been terminated by CRA. If: (i) in CRA’s sole judgment, in consultation with the City, the damage is of such nature or extent that more than one hundred eighty (180) days following the occurrence of the casualty would be required to repair and restore the Property as the case may be; or (ii) in CRA’s sole judgment, the damage is of such nature or extent that it is uneconomical to repair and restore the Property, as the case may be; or (iii) less than one (1) year remains on the then current Term, CRA shall so advise Operator within thirty (30) days after the Event of Casualty, and either Party shall have thirty (30) days after receipt of CRA’s Notice of Casualty to terminate this Sublease by written notice to the other.

(c) If either Party elects to terminate this Sublease in the case described in clauses (i), (ii) or (iii) above, then the Term shall expire as of the date of the CRA’s Notice of Casualty, and Operator shall vacate the Property and surrender the same to CRA in accordance with the terms of this Sublease.

11.2 REPAIR AND RESTORATION

If an Event of Casualty occurs, provided this Sublease is not terminated pursuant to the terms of Section 11.1, and sufficient casualty insurance proceeds after CRA has recovered its expenses, are available for application to such repair and restoration, Operator shall proceed diligently to repair and restore the Property to substantially the same condition prior to the Event of Casualty, and Additional Rent shall equitably abate until the Property and the portions of the Premises providing necessary service and access to the Property are restored. In no event shall CRA have any liability for damages to Operator for inconvenience, annoyance, or interruption of business arising from such fire or casualty.

11.3 VALIDITY AND EFFECT

The validity and effect of this Sublease shall not be impaired in any way by the failure of Operator to complete the repair and restoration of the Property within one hundred eighty (180) days after the occurrence of an Event of Casualty, even if Operator had in good faith notified CRA that the repair and restoration would be completed within such period, provided that Operator proceeds diligently with such repair and restoration; provided, however, if restoration of the Property or the Premises is not substantially completed within three hundred and sixty five (365) days after receipt of CRA's Notice of Casualty, CRA shall have the right to terminate this Lease by written notice to Operator.

ARTICLE 12 DEFAULT

12.1 TERMINABLE DEFAULTS

(a) If at any time subsequent to the commencement of this Sublease any one or more of the following events (herein referred to as a "Terminable Default of Operator") shall happen:

(i) Operator shall abandon the Premises or shall close the Premises to the public for any period of six (6) consecutive months or more, other than (A) as the result of a cause or event referred to in this Article 11, (B) due to a Force Majeure Event, or (C) for the period from the commencement of construction of the City's Initial Work to the substantial completion thereof, provided that such period shall not be more than eighteen (18) months from the Execution Date; or

(ii) Operator shall cease to use substantially all of the Premises for the Permitted Use; or

(iii) Operator shall fail to make improvements subject to Performance Review and does not submit or adhere to a Corrective Action Plan as described in Section 5.2; or

(iv) Operator shall fail to pay the Additional Rent or other charges hereunder when due and such failure shall continue for thirty (30) days after notice to Operator; or

(v) Operator shall neglect or fail to perform or observe any other covenant herein contained on Operator's part to be performed or observed other than the covenants referred to in Section 12.1 above and Operator shall fail to remedy the same within thirty (30) days after notice to Operator specifying such neglect or failure, or if such failure is of such a nature that Operator cannot reasonably remedy the same within such thirty (30) day period, Operator shall fail to commence promptly (and in any event within such 30-day period) to remedy the same and to prosecute such remedy to completion with diligence and continuity; or

(vi) Operator's interest in the Premises shall be taken on execution or by other process of law directed against Operator; or

(vii) Operator shall make an assignment for the benefit of creditors or shall be adjudicated insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future Federal, State or other statute, law or regulation for the relief of debtors (other than the Bankruptcy Code, as hereinafter defined), or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Operator or of all or any substantial part of its properties, or shall admit in writing its inability to pay its debts generally as they become due; or

(viii) Operator shall file a voluntary petition or an order for relief shall be entered against Operator under Chapter 7, 11 or 13 of 11 U.S.C. §101, et seq. (the "Bankruptcy Code"); or

(ix) A petition shall be filed against Operator under any law (other than the Bankruptcy Code) seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future Federal, State or other statute, law or regulation and shall remain un-dismissed or un-stayed for an aggregate of 60 days (whether or not consecutive), or if any trustee, conservator, receiver or liquidator of Operator or of all or any substantial part of its properties shall be appointed without the consent or acquiescence of Operator and such appointment shall remain un-vacated or un-stayed for an aggregate of sixty (60 days (whether or not consecutive);

Then CRA may give notice ("Notice of Terminable Default") to Operator, at which time Operator must prepare within 90 days a Corrective Action Plan to correct the issue(s) giving rise to the Notice of Terminable Default. CRA may request changes or additions to the Corrective Action Plan. If Operator fails to prepare a Corrective Action Plan, abide by the Corrective Action Plan, or the Corrective Action Plan fails to correct the issue(s) giving rise to the Notice of Terminable Default, CRA may, in its sole discretion, issue another Notice of Terminable Default or terminate the Term of this Sublease by giving Operator notice thereof and if Operator fails to take immediate action to remedy such deficiency within thirty days after receipt of the second Notice of Terminable Default, the Term of this Sublease shall terminate on the thirtieth (30th) day after the giving of such notice as if said date were the date originally set forth in this Sublease for the expiration of the Term.

(a) If this Sublease shall have been terminated as provided in this Article, then CRA may re-enter the Premises, either by summary proceedings, ejectment or otherwise, and remove and dispossess Operator and all other persons and any and all property from the same.

(b) The specified remedies to which CRA may resort under this Sublease are not intended to be exclusive of any remedies or means of redress to which CRA may at any time be entitled lawfully, and CRA may invoke any remedy allowed at law or in equity as if specific remedies were not herein provided.

ARTICLE 13 HAZARDOUS MATERIALS

(a) Operator shall indemnify, defend upon demand with counsel reasonably acceptable to City and CRA, and hold City and CRA harmless from and against, any liabilities, losses claims, damages, interest, penalties, fines, attorneys' fees, experts' fees, court costs, remediation costs, and other expenses which result from any the use, storage, handling, treatment, transportation, release or disposal of Hazardous Materials in or about the Premises or the Property by Operator or Operator's agents, employees or contractors after the commencement of the Term.

(b) CRA and Operator shall each give written notice to the other as soon as reasonably practicable of (i) any communication received by any governmental authority concerning Hazardous Materials which relates to the Premises, and (ii) any Environmental Condition. Operator may use chemicals such as adhesives, lubricants, ink, solvents and cleaning fluids in order to conduct its business at the Premises and to maintain and operate the business machines located in the Premises, and such other Hazardous Materials as are necessary for the operation of Operator's business of which CRA receives notice prior to such Hazardous Materials being brought onto the Premises. At any time during the term of this Sublease, Operator shall, within ten (10) business days after written request therefor received from CRA, disclose in writing all Hazardous Materials that are being used by Operator in the Premises, the nature of such use and the manner of storage and disposal. Operator shall use or store only those Hazardous Materials that are customary for the operation of the Premises in accordance with the Permitted Uses and all Hazardous Materials used by Operator shall be used, stored and disposed of in accordance with all applicable Environmental Laws.

(c) City and CRA each reserve the right to cause testing wells to be installed on the Property (and the right to conduct testing at existing wells), and may cause the ground water to be tested to detect the presence of Hazardous Materials by the use of such tests as are then customarily used for such purposes. Without CRA's prior written consent, Operator shall not conduct on the Property any sampling or investigation of soil, groundwater, or any other material or matter to determine the presence of any constituents therein.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 EXTRA HAZARDOUS USE

Operator covenants and agrees that Operator will not do or permit anything to be done in or upon the Premises, or bring in anything or keep anything therein, which shall increase the rate of property or liability insurance on the Premises or the Property above the standard rate applicable to Premises being occupied for Permitted Uses; and Operator further agrees that, in the event that Operator shall do any of the foregoing, Operator will promptly pay to CRA, on demand, any such increase resulting therefrom, which shall be due and payable as Additional Rent hereunder.

14.2 WAIVER

Failure on the part of City, CRA or Operator 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 City, CRA, or Operator, of any of their rights hereunder. Further, no waiver at any time of any of the provisions hereof by City, CRA, or Operator 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.

14.3 COVENANT OF QUIET ENJOYMENT

Subject to compliance with the terms and provisions of this Sublease, Operator shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the Term, without hindrance or ejection by any persons lawfully claiming under City or CRA to have title to the Premises superior to Operator; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

14.4 CITY OR CRA'S LIABILITY

The CRA and City's liability in entering into this Sublease is limited. In no event shall City or CRA ever be liable to Operator for any loss of business or any other indirect or consequential damages suffered by Operator from whatever cause. With respect to any repairs or restoration which are required or permitted to be made by City or CRA, the same may be made during normal business hours and City or CRA shall have no liability for damages to Operator for inconvenience, annoyance or interruption of business arising therefrom.

14.5 INVALIDITY OF PARTICULAR PROVISIONS

If any term or provision of this Sublease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, 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 Sublease shall be valid and be enforced to the fullest extent permitted by law.

14.6 NOTICES

All notices or other communications hereunder shall be in writing and shall be deemed to have been given (i) if delivered by hand, by messenger or by an express delivery service (FedEx, UPS, DHL, etc.), then if and when delivered (or if delivery is refused, when refused) to the respective Parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party), or (ii) if mailed, then on the third business day following the date on which such communication is deposited in the United States mails, by first class registered or certified mail, return receipt requested, postage prepaid, and addressed to the respective parties at the below addresses (or at such other address as a party may hereafter designate for itself by notice to the other party as required hereby).

| | |
|------------|--|
| If to CRA: | Executive Director Cambridge Redevelopment Authority 255 Main Street, Eighth Floor |
|------------|--|

Cambridge, MA 02142

If to Operator: Executive Director
Foundry Consortium
101 Rogers St.
Cambridge, MA 02142

If to City: Cambridge City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

With a copy to:

City Solicitor
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

With a copy to:

City Engineer
Cambridge Department of Public Works
147 Hampshire Street
Cambridge, MA 02139

14.7 WHEN LEASE BECOMES BINDING; ENTIRE AGREEMENT

(a) The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises, and this document shall only become effective and binding on the Execution Date.

(b) This Sublease is the entire agreement between the Parties and expressly supersedes any negotiations, considerations, representations and understandings or other written documents between the Parties, and may be modified or altered only by written agreement between the Parties.

14.8 SURRENDER OF PREMISES

Upon the expiration or earlier termination of the Term, Operator shall peaceably quit and surrender to CRA the Premises in neat and clean condition and in good order, condition and repair, together with all alterations, additions and improvements which may have been made or installed in, on or to the Premises prior to or during the Term of this Sublease, excepting only ordinary wear and use and damage by fire or other casualty for which, under other provisions of this Sublease, Operator has no responsibility of repair or restoration. Operator shall remove to the extent specified by CRA, all alterations made by Operator and all partitions wholly within the Premises; all Operator's Removable Property, and shall repair any damages to the Premises or

the Property caused by such removal. Any Operator's Removable Property which shall remain on the Premises after the expiration or termination of the Term shall be deemed conclusively to have been abandoned, and either may be retained by CRA as its property or may be disposed of in such manner as CRA may see fit, at Operator's sole cost and expense.

14.9 NO BROKER

Operator warrants and represents that it has dealt with no broker in connection with the consummation of this Sublease, and, in the event of any brokerage claims against CRA or City predicated upon prior dealings with Operator, Operator agrees to defend the same and indemnify CRA and City against any such claim. CRA warrants and represents that it has entered into a brokerage arrangement with Newmark Real Estate (“Newman”) in connection with marketing and recruitment strategies and leasing negotiations and CRA covenants that any and all fees, costs and expenses associated with this brokerage arrangement shall be at CRA’s sole cost and expense and CRA agrees to defend and indemnify Operator against any claims by Newman or any other broker or agent with respect to any such brokerage arrangements or agreements made by or for the benefit of CRA.

14.10 DISPUTE RESOLUTION

In the event of a dispute between the Parties, pursuant to this Sublease the Parties agree that prior to pursuing other available remedies (but excluding the giving of notices of a default by the other party), they will attempt to directly negotiate resolution of their dispute. If negotiation is unsuccessful, then they agree to participate in at least three hours of mediation to be facilitated by a mediator mutually acceptable to them and under the mediation procedures set by the mediator. The mediation session shall be conducted within thirty (30) days of the date on which the mediator receives the request to mediate or such sooner time period as the Parties shall mutually agree upon in the event of an emergency. The costs of such mediation shall be shared equally by the Parties.

14.11 EXHIBITS

The Exhibits attached to this Sublease are deemed a part of this Sublease as if they were included in the main body of this Sublease. Capitalized terms used in the Exhibits, unless otherwise defined, shall have the meaning ascribed to them in this Sublease.

14.12 WAIVER OF JURY TRIAL

The Parties each waive trial by jury in any action, proceeding or counterclaim brought by either against the other, on or in respect of any matter whatsoever arising out of or in any way connected with this Sublease, the relationship of City and CRA or CRA's use or occupancy of the CRA’s Office Space.

14.13 TIME IS OF THE ESSENCE

Time is of the essence of each provision of this Sublease.

14.14 FURTHER DEFINITION OF THE CITY

When acting as the Landlord under the Master Lease and as a third-party beneficiary under this Sublease, the City shall act through its City Manager or his or her designee. Approvals under this Sublease shall be subject to further approvals of the City and any of its agencies as may be required by Applicable Law.

14.15 FURTHER DEFINITION OF THE CRA

When acting under this Sublease, the CRA shall act through a majority vote of its Board members; provided, however that the CRA may vote to delegate certain of its rights in this Sublease to the CRA's Executive Director.

14.16 MULTIPLE COUNTERPARTS AND ELECTRONIC SIGNATURES

This Sublease may be executed in multiple counterparts, an electronic or original signature of each of which shall be deemed an original and all of which together shall constitute one and the same document.

14.17 GOVERNING LAW

This Sublease shall be governed exclusively by its provisions and by the laws of The Commonwealth of Massachusetts as the same may from time to time exist.

[END OF SUBLEASE – SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS SUBLEASE TO BE EXECUTED AS OF THE DATES SET FORTH BELOW.

CRA:

Cambridge Redevelopment Authority

By: _____

Name: Kathleen Born
Title: Board Chair
Date:

OPERATOR:

THE FOUNDRY CONSORTIUM, INC.

By: _____

Name:
Title:
Date:

CITY OF CAMBRIDGE

The City of Cambridge is an intended third-party beneficiary of this Sublease, and joins in this Sublease for the purpose of enforcing its rights hereunder. In doing so, the City specifically assumes no liability under this Sublease.

Louis DePasquale, City Manager

EXHIBIT A - THE MASTER LEASE

EXHIBIT B - DESCRIPTION OF THE PROPERTY AND PREMISES

Three Parts:

Property Site Map

Premises Description

FFE Inventory

EXHIBIT C

OPERATOR'S PROPERTY MANAGEMENT RESPONSIBILITIES

Commencing with the Occupancy Date:

- Operator shall maintain heating and cooling systems that serve the Property, as normal seasonal changes may require, to provide reasonably comfortable space temperature and ventilation for occupants of the Property under normal business operation. In the event Operator introduces into the Premises personnel or equipment which overloads the capacity of the Property systems or in any other way interfere with the systems' ability to perform adequately its proper functions, supplementary systems may, if and as needed, at CRA's option, be provided by CRA, at Operator's sole expense.
- The Operator shall be responsible for managing the Premises on a day to day basis, for compliance with the property management responsibilities as set forth in this Sublease, and for maintaining furniture and equipment within the Premises, whether installed by the City, CRA, or Operator. The Operator shall maintain an inventory of all furniture and equipment, and shall report the state of this inventory to the CRA annually.

Commencing with the Occupancy Date, the Operator shall undertake and perform the following duties and services for the Property and the Premises:

Property Management Services:

- Complete or arrange for regular cleaning of the Property and the Premises, including the Commercial Office Space and common spaces. Regular cleaning of the Property and Premises shall include daily cleaning of the interior portions of the Premises and as needed cleaning of the exterior portions.
- Administer work order administration for all Occupants and the CRA
- Provide project management on all required repairs or services necessary for the operations of the Property and the Premises, including but not limited to building repairs and preventative maintenance, inspections, etc.
- Act as first responder for facilities issues during business hours, including but not limited to issues related to plumbing, electrical, HVAC, mechanical, building temperature, plumbing, building access, cleaning, fire/Life Safety Systems and parking
- Coordination with the Property's alarm monitoring service
- Facilitate security card access for all Occupants
- Arrange for the pick-up of waste, recycling, and compost and coordinate with the City its participation in the composting program at the Property
- Arrange and coordinate required routine municipal and/or utility inspections
- Arrange electronics recycling service at least annually
- Develop and maintain a property maintenance schedule
- Assist Occupants with their set up of electrical and telecommunication accounts and installations

- Function as the Transportation Manager for the building providing Occupants and visitors with transit and active transportation information.

Vendor Management:

- Coordinate with the and provide access to the Property for vendors related to preventative maintenance, janitorial and utility services, or vendors called in for repairs that cannot be handled by Operator
- Assist in the procurement of contractors for larger projects related to facility operations
- Maintain and act as an agent on behalf of CRA for all vendor contracts with CRA for the Property. Such contracts shall be entered into by CRA and the vendor, with Operator serving as CRA's agent.
- Procurement of vendor contracts periodically as agreed upon with CRA to ensure fair pricing
- Ensure vendors are meeting requirements under contract, and also that vendors are providing services in accordance with best practices

Accounting:

- Pay all Property invoices related to the administration of the Property from the Manager account when due and payable, subject to right of the Manager to dispute any invoices in the ordinary course of business.
- Prepare, review, analyze and provide financial reports on a cash basis of receipts and disbursements.
- Maintain all accounting records of bills. Such records shall be provided to the CRA
- The Operator shall collect all revenue generated from the Community Reservation Spaces and pay all expenses incurred in connection with the Manager's management of the Property. For any extraordinary expenses over \$50,000, the Operator will be required to receive prior approval from the CRA.
- In the event that the expenses related to the normal operations of the property, including payment for Operator's Work, for a month exceed the revenue collected, provide request to the CRA for reserve funding.

Occupant Management:

- Establish system for the Office Space Tenants to access and reserve community facilities in a manner that balances their interests while retaining community availability as the priority.
- Assist in negotiating new leases or lease renewals
- Assist in finding suitable organizations should space in the Premises become available
- Ensure Occupants are content with their tenancy, and strive to create a sense of community between Occupants and community uses
- Notify and work with CRA toward corrective action should Occupant activities breach an applicable lease agreement
- Host regular events to promote Occupant interactions and collaborations
- Work closely with the CRA to explore opportunities for Office Space Tenants to contribute to the Foundry's mission.

EXHIBIT D - RULES AND REGULATIONS

- a. Proposals by third parties, including applications and requests, for specific uses of the Premises will be evaluated by the Operator according to the objectives for the Property set forth in the Governing Documents and Performance Measures identified in Section 5.2.
- b. Operator shall adopt standard rules and regulations for use of the Premises (“Rules and Regulations”), which shall be subject to approval by CRA. All Permitted Uses must be conducted in accordance with the Rules and Regulations.
- c. Operator shall not place a load upon any floor in the Premises exceeding the floor load allowed by Applicable Law. Machines, equipment and fixtures shall be placed and maintained by Operator at Operator's expense in settings sufficient, in CRA's reasonable judgment, to absorb and prevent vibration, noise and annoyance, in accordance to applicable licenses, permits and approvals required to be obtained by the Operator. Operator shall give CRA prior notice of Operator's intent to move any safe, heavy machinery, heavy equipment, freight, bulky matter or fixtures in or about the Property, and, if CRA shall so require, Operator shall provide insurance, naming City and CRA as an insured, in such amounts as CRA and City may require.
- d. If any such machinery, equipment, freight, bulky matter or fixtures requires special handling, Operator agrees to employ only persons holding a Master Rigger's License to do such work, and that all work in connection therewith shall comply with Applicable Law. Any such moving shall be at the sole risk and hazard of Operator, and Operator will exonerate, indemnify and save City and CRA harmless against and from any liability, loss, injury, claim or suit resulting directly or indirectly from such moving.
- e. Operator agrees to conform to the following provisions during the Term:
 - (i) Freight may only be delivered to or removed from the Property and the Premises between the hours of 7AM and 10 PM; (Written exceptions may be granted for theatre operations on Bent Street.)
 - (ii) Operator will not place on the exterior of the Premises (including both interior and exterior surfaces of doors and interior surfaces of windows) or on any part of the Property outside the Premises, any signs, symbol, advertisement or the like visible to public view outside of the Premises (“Signage”) without the prior consent of CRA, which shall not be unreasonably withheld or delayed so long as such Signage complies with the Applicable Law. CRA will not unreasonably withhold consent for Signage on the Property at the entrance to the Premises; provided, however: (a) such Signage conforms to sign standards for the Property appropriate to Operator's Permitted Use through Article Seven of the Cambridge Zoning Ordinance and adopted by CRA in its reasonable discretion; and (b)

Operator has submitted to CRA a plan or sketch in reasonable detail (showing, without limitation, size, color, location, materials and method of affixation) of the Signage; (c) Operator obtains any consents required by third parties before Operator places such signage; and (d) such Signage complies with the Applicable Law. The initial installation of Signage shall be subject to compliance with this section and shall be considered a part of City's Initial Work;

(iii) Operator shall not perform any act or carry on any practice which may injure the Premises, or any other part of the Property, or cause any offensive odors or loud noise or constitute a sustained nuisance or a menace to any persons in the Property; and

(iv) Operator shall, in its use of the Premises, comply with the requirements of all Applicable Laws.

**EXHIBIT E - OPERATOR'S PERFORMANCE MEASURES AND REPORTING
REQUIREMENTS**

EXHIBIT F – GREEN CLEANING STANDARDS