

**GROUND LEASE AGREEMENT**

**BETWEEN**

**THE STATE OF NORTH CAROLINA  
(LESSOR)**

**and**

**GREENSBORO CENTER FOR INNOVATIVE DEVELOPMENT, INC.  
(LESSEE)**

**for**

**JOINT MILLENNIAL CAMPUS  
GREENSBORO, NORTH CAROLINA**

**Dated: \_\_\_\_\_, 2006**

**NORTH CAROLINA**

**GROUND LEASE AGREEMENT**

**GUILFORD COUNTY**

This GROUND LEASE AGREEMENT (the "*Lease*") is entered into on the \_\_\_ day of \_\_\_\_\_, 2006 by and between THE STATE OF NORTH CAROLINA, (the "*Lessor*") and GREENSBORO CENTER FOR INNOVATIVE DEVELOPMENT, INC., (the "*Lessee*").

**RECITALS**

A. The Lessor is the owner of the Land (hereafter defined) situated in or near the City of Greensboro, Guilford County, North Carolina, together with certain existing Improvements (hereafter defined) situated thereon.

B. The Lessor desires to lease the Land and existing Improvements to the Lessee, and the Lessee desires to rent the Land and the existing Improvements pursuant to the terms contained within this Lease from the Lessor and to secure financing for the construction on the Land of certain additional Improvements to be hereafter determined, designed and constructed.

In consideration of the mutual covenants for this Lease, the Lessor and the Lessee agree as follows:

**ARTICLE I  
BASIC LEASE INFORMATION**

1.1 Basic Lease Information. In addition to the terms that are defined elsewhere in this Lease, these terms are used in this Lease.

1.1.1 Lessor's Address:

State of North Carolina  
c/o North Carolina Agricultural & Technical State University  
Dowdy Administration Building  
1601 East Market Street  
Greensboro, NC 27411  
Attention: Vice Chancellor for Business Affairs

And

c/o The University of North Carolina at Greensboro  
P.O. Box 26170  
Greensboro, NC 27402  
Attention: Vice Chancellor for Business Affairs

1.1.2 Lessee's Address:

Greensboro Center for Innovative Development, Inc.  
5900 Summit Avenue  
Brown Summit, NC 27214  
Attn: Executive Director

1.1.3 Land. The two separate tracts or parcels of real estate, denominated the "North Campus" and the "South Campus" and collectively comprising the "Joint Millennial Campus," situated in or near the City of Greensboro, Guilford County, North Carolina, and more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "*Land*").

1.1.4 Improvements. The improvements now or hereafter located on the Land, whether placed thereon by Lessor or Lessee (the "*Improvements*").

1.1.5 Premises. The Land and the Improvements existing thereon at the date of this Lease, together with all rights, privileges, easements and appurtenances in any way pertaining to the Land and the existing Improvements, including, without limitation, all easements for access and utilities over, upon or serving the Land, shall be known as the "*Premises*." As a part of the Lessor's commitment toward good stewardship of property owned by the Lessor, the Lessor requests that the Lessee support the sustainability efforts of the Lessor by applying best management practices in the use and development of the Premises.

1.1.6 Universities. North Carolina Agricultural & Technical State University and The University of North Carolina at Greensboro shall be the "*Universities*" referred to in this Lease. Whenever in this Lease provision is made for notice to, action by or the approval of the Universities, such provision shall be deemed to mean and refer to the Vice Chancellors for Business Affairs of both North Carolina Agricultural & Technical State University and The University of North Carolina at Greensboro, unless otherwise expressly noted.

1.2 Exhibits. The following exhibits are attached to this Lease and are made part of this Lease.

Exhibit A - Legal Description of Land.

## ARTICLE II LAND, TERM AND USE

2.1 Premises. Upon the terms, provisions and conditions hereof, and each in consideration of the duties, covenants and obligations of the other hereunder, the Lessor hereby leases to the Lessee the Premises **TO HAVE AND TO HOLD** said Premises, together with all privileges and appurtenances thereunto belonging, to the Lessee, its successors and assigns, for the term and upon the conditions hereinafter set forth.

2.2 Term. Subject to the terms, provisions and conditions hereof, this Lease shall continue in force for a term (the "*Term*") of fifty (50) years, commencing September 1, 2005 (the "*Commencement Date*") or upon Lessee's later possession of the Premises and terminating fifty (50) years from the Commencement Date ("*Initial Termination Date*"). Lessee, in its sole discretion, may extend the Term of this Lease for two (2) successive periods of ten (10) years each (if such Term is extended as provided in this Section or if the Lessee elects not to exercise its Renewal Option (as defined below), the date of the termination of this Lease shall be known as the "*Termination Date*"), upon all of the terms set forth in this Lease (the "*Renewal Option*"). The Lessee may exercise such Renewal Option so long as the Lessee is not in default (beyond applicable cure periods) under this Lease at the time of any such election of the Renewal Option, and by giving the Lessor notice of each such election not later than the 180th day prior to the expiration of the then current Term of this Lease.

2.2.1 Ownership of Improvements; Surrender of Land. During the Term, ownership of the Improvements constructed or renovated by or on behalf of the Lessee or its sublessees on the Premises shall be in the Lessee or its sublessees, as appropriate. Upon the expiration of the Lease, ownership of the Improvements constructed or renovated by or on behalf of the Lessee or its sublessees shall be in the

Lessor. Throughout the Term, any liens, encumbrances, mortgages, or claims of third parties, including construction lenders and permanent lenders, with respect to any interest in Land or Improvements that may be deemed owned by the Lessee or its sublessees shall be expressly subordinate and subject to the rights of the Lessor under this Lease, unless otherwise consented to by the Lessor under this Lease. During the Term, the Lessee shall be entitled to deduct all depreciation for the Improvements, and any additions, changes or alterations thereto.

2.2.2 Expiration of Lease. At the conclusion of the initial Term of this Lease or any renewal or extension thereof, the Lessee and its sublessees will promptly quit and surrender the entire Premises, which shall include the Land, as well as convey to the Lessor in fee simple absolute by special warranty deed, free and clear of all mortgages and liens, all the Improvements constructed or renovated by or on behalf of the Lessee or its sublessees on the Land, in good order, condition, and repair, ordinary wear and tear excepted, and in broom clean condition.

2.3 Use The Lessor's fundamental objectives in leasing the Premises, are to (1) enhance the teaching and research opportunities for the faculty and students of the Universities by providing them with a close association with educational, research or technologically-oriented entities and (2) foster economic growth and development opportunities for the region. Accordingly, the use of the Premises by the Lessee or its sublessees shall be restricted to either (a) research, education, development testing, fabrication and assembly in the fields of information technology, computer software/hardware development, advanced materials, engineering, biotechnology, environmental sciences, agriculture and life sciences and business management, (b) related light manufacturing, fabrication and assembly in conjunction with an ongoing research program with the Lessor or any of its constituent departments or state-supported educational institutions, (c) technology-related services (including but not limited to engineering, computer software, and consulting services), (d) academic facilities, (e) commercial and retail support services and (f) such other improvements that will enhance the teaching, research and service missions of the Lessor and the ability of the Lessee to attract sublessees that will foster economic development. The use of the Premises by the Lessee or its sublessees shall further conform to the *Joint Millennial Campus Physical Master Plan and Development and Design Guidelines* (the "JMC Master Plan") to be developed by the Lessee, approved by the Boards of Trustees of the Universities and made applicable to the Premises at or prior to the first sublease of any portion of the Premises by Lessee, which JMC Master Plan may thereafter be amended and/or restated upon proposal by the Lessee and approval by the Boards of Trustees of the Universities.

#### 2.4 Assignment and Subleasing.

(a) Except as otherwise provided in this Lease with respect to a Permitted Mortgage, the Lessee shall not assign this Lease without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. If the Lessee desires to assign this Lease, the Lessee shall first advise the Lessor in writing of the name of the proposed assignee, the proposed use of the Premises and such financial information as the Lessor may reasonably require applicable to the proposed assignee. The Lessee shall also accompany such request for consent with a copy of the proposed assignment and any other agreements to be entered into concurrently with such assignment. It shall not be unreasonable for the Lessor to withhold its consent to a proposed assignment if the reputation, financial responsibility or business of the proposed assignee is reasonably unacceptable to the Lessor or if the intended use of the Premises by the proposed assignee is not identical to the use of the Premises authorized by the provisions of this Lease. Neither an assignment of this Lease, nor the Lessor's consent thereto, shall release or discharge the Lessee from any liability, past or future, under this Lease. For the purposes of this subparagraph (a), an assignment shall include any transfer of this Lease, whether voluntary or involuntary or by operation of law, but shall not include an assignment made in conjunction with a Permitted Mortgage.

(b) The Lessee may sublet the Premises or portions thereof without any requirement to obtain the Lessor's consent subject to the following conditions:

- (i) The use of the Premises by the sublessee shall comply with the use restrictions contained in Section 2.3 of this Lease;
- (ii) The Lessee shall not then be in default under this Lease;
- (iii) Any sublease shall provide that it is subject to the terms and conditions of this Lease and may, at the Lessor's option, require the sublessee to attorn to the Lessor;
- (iv) Neither any sublease nor the Lessor's implied or actual consent thereto shall release or discharge the Lessee from any liability, past or future, under this Lease;
- (v) The Lessee shall remain fully liable under this Lease upon notice in accordance with this Lease from Lessor of any default under this Lease;
- (vi) No subletting shall be for a term ending later than one (1) day prior to the expiration of the Term of this Lease;
- (vii) The Lessee shall deliver to the Lessor a duplicate original or a conformed copy of the sublease, along with evidence of the requirements of this Subparagraph (b) having been satisfied; and
- (viii) Such other criteria as may be implied by law.

(c) Lessee shall not assign any of its rights under this Lease separate from any assignment permitted under subparagraph (a) above, any subletting permitted under subparagraph (b) above or a Permitted Mortgage.

2.5 Premises Rent. The Premises Rent shall be One and No/100 United States Dollars (\$1.00 USD) for the Term, including any extension of the Term pursuant to a Renewal Option.

### ARTICLE III CONSTRUCTION OF IMPROVEMENTS

3.1 Plans and Specifications Review and Approval. The Lessee agrees to submit, and cause its sublessees to submit, complete architectural and engineering plans and specifications for the construction of any Improvements on the Premises for the prior review, but not approval, by (i) the State Construction Office and the North Carolina Department of Insurance if the construction costs for the contemplated Improvements exceed the dollar limitation set forth in N.C. Gen. Stat. §116-31.11 or (ii) the Universities in accordance with the authority delegated to the Universities by the Board of Governors of The University of North Carolina under The University of North Carolina Design and Construction Guidelines (the "UNC System Guidelines") if the construction costs for the contemplated Improvements do not exceed the dollar limitation set forth in N.C. Gen. Stat. §116-31.11. In addition, the Lessee shall cause its sublessees to submit to the Lessee, for the Lessee's prior written approval, not to be unreasonably withheld or delayed, complete architectural and engineering plans and specifications for any Improvements to be made to the Premises by such sublessees, which plans and specifications shall be prepared by architects and engineers previously approved in writing by the Lessee.

3.2 Standard of Construction of Improvements. The Lessee, at the expense of the Lessee, shall cause the renovation or construction of Improvements to the Premises commissioned by the Lessee, and shall require its sublessees, at the expense of its sublessees, to cause the renovation or construction of Improvements to the Premises commissioned by a sublessee, to be completed in conformity to (i) the North Carolina State Building Code or the local building code, as applicable, and (ii) plans and specifications reviewed and/or approved for renovation or construction in accordance with Section 3.1 of this Agreement and (iii) in a good and workmanlike manner and in compliance with applicable laws and regulations, including, but not limited to, environmental laws and regulations and the Americans with Disabilities Act, 42 U.S.C. Sec. 1210, et seq., and the ADA Disability Guidelines promulgated with respect thereto. The plans and specifications reviewed and/or approved for renovation or construction of Improvements in accordance with Section 3.1 of this Agreement, as well as the construction of Improvements pursuant to this Section, shall also be subject to, and in compliance with, the JMC Master Plan to be adopted as more fully provided in Section 2.3 of this Lease and the *Joint Millennial Campus Construction Rules and Regulations for Third Party Construction Projects* ("JMC Construction Rules"), to be adopted by the Board of the Lessee at or prior to the first sublease of any portion of the Premises by the Lessee. Until such time as the JMC Master Plan and the JMC Construction Rules have been adopted, as more fully provided in Section 2.3 of this Lease and this Section 3.2, the Design and Construction Guidelines adopted by North Carolina Agricultural & Technical State University pursuant to the authority delegated to the Universities under the UNC System Guidelines shall govern the review and/or approval for renovation or construction of Improvements in accordance with Section 3.1 of this Lease, as well as the construction of Improvements pursuant to this Section. The Lessee, for all Improvements to be constructed by it, or any sublessee for Improvements to be constructed by it, shall, at the expense of the Lessee or its sublessee, as appropriate, obtain all necessary and appropriate governmental licenses, permits and approvals, including, without limitation, all necessary and appropriate grading and building permits, environmental licenses, permits and approvals and other construction permits and approvals required by federal, state or local law. All regulatory fees (including acreage fees, development fees, tap fees, and the like) solely applicable to the Premises levied by governmental authorities shall be paid by the Lessee or its sublessees, as appropriate.

The Lessee or its sublessees shall be responsible for the installation of all roads and utilities required to serve the Premises. During the Term, the Lessor shall grant to the Lessee, from any adjacent land under the ownership or control of the Lessor, and as may be reasonably required to serve the Premises and following all necessary prior governmental approvals, all easements and rights of way as required for the construction of roads and utilities, provided the Lessor shall approve the location of said easements and rights of way. Based on the alignment provided by the Lessor, the Lessee or its sublessees shall construct roads and/or utilities serving the Premises. Notwithstanding the forgoing, the Lessor may, in its sole discretion and at its own expense, remove or relocate any easement and right of way described herein, and the road or utilities located therein, provided that such removal or relocation is reasonable, is made upon reasonable notice to, and in coordination with, the Lessee and does not impair the use and operation of the Premises.

The Lessee and its sublessees, as applicable, may individually negotiate contracts for the design and construction of Improvements to the Premises and need not conform to public bid requirements in contracting for the design and construction of Improvements to the Premises. However, contractors employed in the design and construction of the Improvements to the Premises shall be required to follow the program adopted by the General Administration of the University of North Carolina under the UNC System Guidelines and NC Gen. Stat. Sec. 143-128 for the participation of minority businesses in the design and construction of the Improvements.

3.3 Commencement/Completion of Improvements. Renovation or construction of any Improvement commenced on the Premises shall be substantially completed within thirty (30) months from the commencement of such renovation or construction, subject to force majeure as defined in Section 9.12. Construction of Improvements shall be deemed substantially complete upon (i) the issuance

of a Certificate of Occupancy for the Improvements by the local building inspections department having jurisdiction over such construction and (ii) the issuance of a Certificate of Substantial Completion by the architect for the Improvements. Upon completion of construction of such Improvements, Lessee shall, or shall cause its sublessee to, deliver to (a) the Lessee (only for Improvements constructed by a sublessee), (b) the Universities and (c) the State Construction Office the following construction documents: (x) a copy of the Certificate of Occupancy for the Improvements issued by the local building inspections department, (y) a copy of the Certificate of Substantial Completion issued by the architect for the Improvements and (z) a complete set of as-built plans for the completed Improvements.

The Lessee or its sublessees, as appropriate, shall indemnify and hold harmless the Lessor and its agents and employees, and the Premises, from and against all claims and liabilities arising by virtue of or relating to construction of the Improvements by or on behalf of the Lessee or its sublessee, as appropriate, or repairs, alterations or similar activity made at any time to the Improvements (including repairs, restoration and rebuilding) by or on behalf of the Lessee or its sublessees, as appropriate, including, without limitation, the Lessee's (or its sublessees') failure to obtain or comply with any necessary required licenses, permits, approvals, laws or regulations.

3.4 Inspection of Construction. The State Construction Office and/or the North Carolina Department of Insurance, as to the construction of Improvements having a construction cost in excess of the dollar limitation set forth in N.C. Gen. Stat. §116-31.11, or the Universities, as to the construction of Improvements having a construction cost less than the dollar limitation set forth in N.C. Gen. Stat. §116-31.11, shall have the right to enter upon the Premises during the period of any renovation or construction for the purpose of inspecting the ongoing renovation or construction of any Improvements, provided such entry shall not interfere with or disrupt construction activities with respect to the Improvements. In addition, as to construction of Improvements on the Premises by sublessees, the Lessee shall have the right to enter upon the portion of the Premises sublet to such sublessee during the construction of such Improvements for the purpose of inspecting the ongoing construction of the Improvements, provided such entry shall not interfere with or disrupt the sublessee's construction activities with respect to its Improvements.

3.5 Performance and Payment Bonds. No construction of Improvements shall commence unless the Lessee or its sublessee, as appropriate, shall have delivered to the Universities security for the completion of the Improvements, and all changes or alterations thereto, and for the payment in full of claims of all persons for work performed in or materials furnished for construction by providing payment and performance surety bond(s) in form acceptable to the Universities and issued by corporate surety licensed to do business in the State of North Carolina and possessing a Best Rating of A+ or higher in an amount equal to the cost of each Improvement. The foregoing requirements to be deposited with the Universities and to remain in effect until the Improvements shall have been constructed and insured as provided in this Lease, and the entire cost of the Improvements, or any alterations thereto, shall have been paid in full, free from all liens and claims of contractors, subcontractors, mechanics, laborers and materialmen.

3.6 Performance Guaranty and Financing Approval. No renovation or construction of Improvements shall commence until the Lessee or its sublessee has provided evidence, reasonably satisfactory to the Universities, that there has been (1) binding commitment or allocation of sufficient funds, whether by legislative allocation or grant, industrial revenue bonds, institutional financing or otherwise, by the Lessee to complete the renovation or construction of the Improvements, and (2) the Lessee or its sublessee has made a legally binding commitment to complete the renovation or construction of the Improvements using the funds so allocated.

3.7 Allocation of Responsibility. During the Term, the Lessee shall be responsible for the Premises and the Lessor shall have no liabilities, obligations or responsibilities whatsoever with respect thereto unless expressly stated.

Nothing contained in this Lease shall constitute any consent or request by the Lessor, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect to the Premises or any part thereof, nor as giving the Lessee any right, power, or authority to contract for or permit the performance of any labor or services or the claim against the Lessor in respect thereof.

#### **ARTICLE IV LESSOR'S COVENANTS**

4.1. Lessor's Obligations. Subject to the Lessee's performance of its obligations hereunder, the Lessor makes the following assurances to the Lessee:

4.1.1 Assistance of Lessor. The Lessor shall act reasonably to cooperate with the Lessee in executing such documents and instruments, as shall be required by governmental agencies to renovate or construct any Improvements, and to obtain the licenses and permits required by applicable law in accordance with the permitted use of the Premises under Section 2.3.

4.1.2 Quiet Enjoyment. The Lessor covenants and agrees with the Lessee that so long as the Lessee pays the Premises Rent and observes and performs all the terms, covenants, and conditions of this Lease on the Lessee's part to be observed and performed, the Lessee may peaceably and quietly enjoy the Premises subject, nevertheless, to the terms and conditions of this Lease, and the Lessee's possession will not be disturbed by anyone claiming by, through, or under the Lessor.

#### **ARTICLE V LESSEE'S COVENANTS**

5.1 Payments by Lessee. The Lessee agrees to timely pay all Premises Rent and other sums due to the Lessor at the times and in the manner herein provided.

5.2 Permitting of Improvements. The Lessee shall obtain all licenses and permits, and comply with all statutes, laws and regulations, for the construction of the Improvements in accordance with the permitted use of the Premises under Section 2.3.

5.3 Repairs, Maintenance and Care of the Land. By possession or occupancy of the Premises, the Lessee acknowledges that it has inspected the Premises and finds the Premises to be satisfactory and in conformity to the obligations of the Lessor upon delivery of the Premises to the Lessee. The Lessee shall maintain the Premises in a clean, attractive condition, and not commit or allow any waste or damage to be committed on or to any portion of the Land, ordinary wear and tear accepted. All maintenance and repair of the Land and the Improvements shall be the responsibility of the Lessee or its sublessees and the Lessee or its sublessees shall, at other than Lessor's expense, keep and maintain in good repair the whole of the Premises, including, the interior and exterior of any Improvements, as well as their respective heating, air conditioning, plumbing, electrical, lighting, gas, and other mechanical systems, including safety and alarm systems such as fire alarms, sprinkling systems, and locks and other security devices. Lessor shall have no obligation or responsibility for such maintenance. The Lessee or its sublessees will promptly repair any damage to the Premises, with the exception of any damage caused by the Lessor or its agents and contractors.

5.3.1 Alterations, Additions, Improvements. Any change, improvement or addition to the Premises, together with the Improvements constructed thereon, shall be completed in conformity to (i) the North Carolina State Building Code or the local building code, as applicable, and (ii) plans and specifications approved for renovation or construction in accordance with Section 3.1 of this Agreement, and (iii) in a good and workmanlike manner in compliance with applicable laws and regulations, including, but not limited to, environmental laws and regulations and the Americans with Disabilities Act,

42 U.S.C. Sec. 1210, et seq., and the ADA Disability Guidelines promulgated with respect thereto. During the Term hereof, the Lessee may remove supplies and moveable furniture and equipment (not belonging to or installed by the Lessor), provided: (a) such removal is made prior to the termination or expiration of the Term; (b) the Lessee is not then in default in the timely performance of any obligation or covenant under this Lease; (c) the Lessee properly repairs all damage caused by such removal and (d) the Lessee agrees that no trade fixtures or equipment shall be removed from the Premises which render the Improvements unsuitable for their continued use as described in Section 2.3 herein. All other property at the Premises and any alteration, change, improvement or addition to the Premises, and any other article attached or affixed to the Premises, shall become the property of the Lessor and shall be surrendered with the Premises as part thereof at the termination of this Lease, without payment or compensation therefor.

The Lessor shall have no obligation or responsibility for such maintenance. The Lessee or its sublessees will promptly repair any damage to the Premises with the exception of any damage caused by the Lessor or its agents and contractors.

5.3.2 Compliance with Laws. The Lessee and/or its sublessees, at other than the Lessor's expense, shall comply with all Federal, State, municipal and other laws, regulations, and ordinances, including environmental remediation standards, applicable to the construction, use and, occupancy of any Improvements, and with respect to the Land, including license and permit requirements, and will not commit or permit waste in respect to the Land. The Lessee agrees to comply, and to cause its sublessees to comply, with all applicable environmental laws in its construction, management and ownership of the entire Land.

5.4 Utilities. The Lessee shall provide and maintain its own electrical, gas, telephone, water and sewer, garbage and refuse removal and other utility services with respect to the Premises and shall bear all expenses relating thereto, including, any connection charges.

5.5 Signs. The Lessee may erect, install and display directional and informational signs upon the Premises in conformity to applicable laws. In addition, the Lessee may permit its sublessees or tenants of the Improvements constructed on the Premises to install tenant signage in or on any sublet portion of the Premises in conformity to the Lessee's standards for such tenant signage, if any, and all applicable laws. The Lessee also agrees to maintain any signs installed by the Lessee on the Premises, to remove any such sign at the expiration or termination of this Lease and to repair at the Lessee's expense all damage to the Premises or the Improvements constructed thereon caused by such removal.

5.6 Lessor's Right. Subject to the provisions of this Lease, the Lessor and its authorized representatives shall have the right to enter the Premises at reasonable hours after notification to the Lessee and/or its sublessees, as applicable, for the purposes of inspecting the Premises and for excavation and installation of utilities and other improvements associated with the development of adjacent properties owned by the Lessor.

5.7 Taxes and Assessments. In no event shall Lessor be liable for any ad valorem or similar taxes or assessments levied upon or applicable to any leasehold improvements, equipment, fixtures, furniture or other property situated on the Premises by the Lessee or its sublessees.

5.8 Mechanics' Liens. The Lessee and its sublessees shall not place or permit to be placed any lien, affidavit, charge or other encumbrance or order upon the Premises or any part thereof or any interest therein. In the event that any such lien, affidavit, charge, encumbrance or order upon the Premises or any part thereof or any interest therein attaches, regardless of the validity or enforceability thereof, the Lessee or its sublessees, as applicable, shall, within twenty (20) days of receipt of notice of such lien, cause the same to be discharged of record by payment, bonding or otherwise.

**ARTICLE VI**  
**INDEMNITY AND INSURANCE**

6.1 Lessee/Lessor Liabilities. The Lessee agrees to indemnify and hold the Lessor harmless from all liability and claims for any injury to or death of a person or damage to or loss of property caused by or arising out of any acts, omissions or neglect of the Lessee, its agents, contractors, sublessees, employees, customers, licensees, concessionaires or invitees or any other person entering the Premises under express or implied invitation of the Lessee or other sublessees of the Premises, except to the extent such claims, costs, damages or liabilities arise from the gross negligence or willful misconduct of the Lessor, including, without limitation, all claims, costs, damages, liabilities, attorneys' fees and all other out-of-pocket expenses incurred in connection therewith.

6.2 Subrogation. The Lessor, to the extent allowed by the laws and Constitution of the State of North Carolina, and the Lessee waive any and all rights of recovery, claims, actions, or causes of action against the other, its agents, officers, and employees for any injury, death, loss, or damage that may occur to persons or the Premises, or any personal property of such party, by reason of fire, the elements, or any other cause which is insured against under the terms of the policies of insurance maintained by the Lessor or the Lessee or that the Lessee is required to provide, regardless of cause or origin, including negligence by the party, its agents, officers, or employees. Each party covenants that no insurer holds any right of subrogation against the other, except in the case (and only in the case) where a waiver of subrogation invalidates coverage under such policy issued by a third party carrier and, to the extent a waiver may be obtained on reasonable terms and at a reasonable cost, each party shall require from its insurer a written waiver or rider under such policy.

6.3 Insurance Proceeds. Any Permitted Mortgage shall provide that, in the event that (i) proceeds from any property/casualty insurance policy(ies) ("*Property Insurance Proceeds*"), together with any additional funds which the Lessee and/or the Lessor are willing to contribute, are sufficient to repair and/or replace damage following a fire or other casualty, and (ii) proceeds from any rental interruption insurance (or similar insurance), together with any net available revenues from the Premises or other funds which are or will be available and/or which the Lessee and/or the Lessor are willing to contribute, are sufficient to satisfy all Permitted Mortgage Requirements during the period of repair and/or replacement, the Property Insurance Proceeds shall be made available by the Permitted Mortgagee for such repair and/or replacement. The determination of whether any such proceeds and/or other funds are sufficient for purpose of the immediately preceding sentence shall be made by an independent third party certified public accountant at the Lessee's expense. "*Permitted Mortgage Requirements*" means with respect to any period, the aggregate of: (i) principal, redemption premium and interest to become currently payable during such period; (ii) administrative expenses and fiduciary fees to become payable during such period; (iii) required deposits to reserve accounts required to be made during such period; and (iv) penalties or make-whole amounts required to be funded during such period, in each case as provided by each such Permitted Mortgagee.

6.4 Lessee's Insurance. At all times during the Term, the Lessee shall carry and maintain at its sole cost and expense, the following insurance in the amounts specified below or such other amounts as the Universities and the Lessee may from time to time agree upon, with insurance companies and on forms reasonably satisfactory to the Universities and the Lessee.

6.4.1 Fire and Extended Coverage Insurance. Fire and extended coverage insurance covering all Improvements in the Premises and all of the Lessee's merchandise, equipment, trade fixtures, appliances, furniture, furnishing, and personal property from time to time on or upon the Premises, in an amount not less than the full replacement cost without deduction for depreciation from time to time during the Term, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended peril (at risk), boiler, flood, vandalism, glass breakage, and sprinkler leakage.

6.4.2 Builder's Risk Insurance. Builders all-risk insurance in an amount reasonably satisfactory to the Universities during the construction of any Improvements and during any subsequent restorations, alterations, or changes in Improvements that may be made by the Lessee at a cost in excess of Five Hundred Thousand and No/100 United States Dollars (\$500,000.00 USD) per job.

6.4.3 Commercial General Liability Insurance. Commercial general liability insurance against all claims for bodily injury, death or property damage, occurring upon, in or about the Premises or the Improvements with an aggregate single limit of coverage of not less than \$2,000,000.00. The Universities and the Lessee shall review the foregoing coverage limits every five (5) years during the Term of this Lease and any renewal thereof, and the Lessee shall, at Lessee's sole expense, increase the coverage limits whenever reasonably required by the Lessor after such review.

6.5 Forms of Policies. Originals or copies of original policies, as well as evidence of payment of all premiums of such policies, shall be delivered prior to the Commencement Date and from time to time at least thirty (30) days prior to the expiration of the term of each such policy. All such policies maintained by the Lessee shall be purchased only from insurers who are licensed to do business in the State of North Carolina, comply with the requirements thereof and who carry A.M. Best Company rating of "A" or "A+" and will provide that they may not be terminated or amended except after (30) days' prior written notice to the Lessor. No insurance required by this Article VI shall be subject to more than a \$50,000 deductible limit without the Lessor's prior written consent.

6.6 Adequacy of Coverage. The Lessor, its agents and employees make no representation that the limits of liability specified to be carried by the Lessee pursuant to this Article VI are adequate to protect the Lessee. If the Lessee believes that any of such insurance coverage is inadequate, the Lessee will obtain, at the Lessee's sole expense, such additional insurance coverage, as the Lessee deems adequate.

## ARTICLE VII HOLDING OVER AND DEFAULT

7.1 Holding Over. This Lease shall terminate at the end of the Term hereof without the necessity of any notice from either the Lessor or the Lessee to terminate same and the Lessor's right to the Premises shall be as stated in Section 2.2.1 and elsewhere herein, and the Lessee hereby waives notice to vacate the Premises and agrees that the Lessor shall be entitled to the summary recovery of possession of the Premises should the Lessee hold over to the same extent as if statutory notice had been given. If the Lessee should remain in possession of the Premises after the termination or expiration of the Term without the execution by the Lessor and the Lessee of a new lease, then the Lessee shall be deemed to be occupying the Premises as a tenant-at-sufferance, subject to all the covenants and obligations of this Lease and at rental equal to the fair market rental value to be determined as provided in Section 7.1.1 below, but such holding over shall not extend the Term of the Lease.

7.1.1 Determination of Fair Market Rental. The "Three Broker Method" shall be used to determine fair market rental value in the following manner. Either the Lessor or the Lessee (the "First Party") may initiate the determination in the fair market rental value by delivering written notice to the other (the "Second Party") of the name of a real estate broker who has at least five (5) years of experience as a broker for the leasing of commercial property in the Greensboro, North Carolina real estate market. Within ten (10) days after receipt of such notice, the Second Party shall provide the First Party with the name of a real estate broker who meets the same criteria by written notice. If the Second Party fails to name such a broker within such period, then the fair market rental value established by the broker named by the First Party shall be the rental. If the Second Party does name such a broker, then, within fifteen (15) days, the two brokers shall together appoint a third broker who meets the same criteria and, within an additional fifteen (15) days, the three brokers shall jointly determine the fair market rental value, which shall be the rental during the holdover period. If the three brokers cannot agree to the fair market rental

value, the determination of the broker who is the median of the two extremes shall be binding and conclusive. Each party shall pay all costs, fees and expenses of the broker they select and the parties shall share equally the costs, fees and expenses of the third broker.

7.2 Lessee Default. Each of the following occurrences relative to the Lessee shall constitute an “*Event of Default*”:

7.2.1 Failure or refusal by the Lessee to make the timely payment of Premises Rent or other sums payable under this Lease when and as the same shall become due and payable; or

7.2.2 Failure by the Lessee in the performance or compliance with any of the agreements, terms, covenants or conditions under this Lease applicable to the Lessee under this Lease, for a period of sixty (60) days (or such additional time as is reasonably required to correct any such default) after notice from the Lessor to the Lessee specifying the items in default.

Upon an Event of Default under Sections 7.2.1 or 7.2.2 the Lessor shall give written notice to the Permitted Mortgagee of the occurrence of the Event of Default.

7.3 This Lease and Term and estate hereby made are subject to the limitation that if and whenever any Event of Default shall occur, the Lessor may, at the Lessor’s option and without order of any court or further written notice to the Lessee, in addition to all other remedies given hereunder or by the law or equity and without limiting in any manner whatsoever any other options available, do any one or more of the following:

7.3.1 Terminate this Lease, in which event the Lessor may offer for sale its interest in the Premises to the Lessee at its fair market value to be determined by an independent fee appraisal employing the “Three Broker Method” described in Section 7.1.1 but substituting for the brokers referred to in Section 7.1.1 real estate appraisers holding the designation of a Member of the Appraisal Institute; provided such offer shall be subject to the appropriate governmental approvals.

7.3.2 Pursue any other remedy available at law or in equity.

7.4 Lessor Default. The Lessor shall in no event be in default in the performance of any of the Lessor’s obligations hereunder unless and until the Lessor shall have failed to perform such obligations within sixty (60) days (or such additional time as is reasonably required to correct any such default) after written notice by the Lessee to the Lessor properly specifying wherein the Lessor has failed to perform any such obligation. The Lessor shall have no liability for any incidental or consequential damages of the Lessee, or anyone claiming by, through or under the Lessee, for any reason whatsoever. If the Lessor fails to perform any of its obligations or covenants under this Lease, the Lessee shall be entitled to enforce any one or more of the following rights and remedies: (a) institute an action against the Lessor as the Lessee may deem necessary to compel performance hereunder or cease activities constituting the defaults by Lessor hereunder so long as such action does not abrogate the Lessee’s obligations hereunder; and (b) exercise all other rights and remedies available to the Lessee under this Lease or otherwise available to the Lessee at law or in equity as a consequence of the Lessor’s default.

7.5 Lessor’s Option to Cure Lessee Default. If the Lessee should fail to make any payment, perform any obligation, or cure any default hereunder, the Lessor, without obligation to do so and without thereby waiving such failure or default, may make any such payment, perform such obligation, and/or remedy such other default for the account of the Lessee (and enter the Land for such purpose), and the Lessee shall pay upon demand all reasonable costs, expenses and disbursements (including reasonable attorney’s fees) incurred by the Lessor in taking such remedial action.

## ARTICLE VIII PERMITTED MORTGAGES

8.1 Permitted Mortgagee. Notwithstanding anything elsewhere contained in this Lease, the Lessor hereby consents to any one or more leasehold deeds of trust (a "*Permitted Mortgage*") executed from time to time from the Lessee, as grantor, to the trustee named therein for the benefit of the lender named therein pursuant to which the Lessee shall mortgage its leasehold interest as the Lessee in this Lease to secure indebtedness undertaken for the construction of Improvements pursuant to this Lease, and any insurer or other credit enhancement provider that insures repayment of the indebtedness secured by the deed of trust and their respective successors or assigns (collectively, a "*Permitted Mortgagee*"). The right of the Lessee to mortgage its interest in this Lease to one or more Permitted Mortgagees under one or more Permitted Mortgages, and to assign this Lease solely as collateral security for any Permitted Mortgage (e.g., construction and/or permanent loan or loans) obtained by the Lessee to be secured by the Improvements for which the Permitted Mortgage has been obtained, shall be subject to the conditions (i) that all rights acquired under such Permitted Mortgage shall be subject to the terms of this Lease and to all rights and interests of the Lessor herein, (ii) that this Lease shall not be in default at the time of any such mortgage or assignment of the Lessee's interest in this Lease to a Permitted Mortgagee, and (iii) that no interest of the Lessor under this Lease or in the Premises shall be secured by or subject to such Permitted Mortgage.

8.2 Lessor Protective Provisions. Every Permitted Mortgagee to whom the Lessee grants a Permitted Mortgage upon the Lessee's leasehold estate in all or a portion of the Premises must expressly agree that, subject to the rights of the Permitted Mortgagee provided by this Lease:

8.2.1 The Permitted Mortgagee shall not exercise any of its remedies for any default or defaults of the Lessee, without first providing the Lessor with notice in the manner required herein;

8.2.2 Such Permitted Mortgagee will accept a cure by the Lessor of any such default which is capable of being cured, except the Lessor shall not be required to cure any such default and the Lessor shall have a cure period that will commence upon notice to the Lessor of such default and will be equal in length to the applicable cure period, if any, as provided to the Lessee; and

8.2.3 All payments so made and all things so done or performed by the Lessor will be as effective to prevent an acceleration of the maturity of the indebtedness secured by the Permitted Mortgage, the foreclosure of any liens securing payment of such indebtedness, or the exercise of any other remedies by such Permitted Mortgagee upon default by the Lessee thereunder, as the same would have been if paid, done or performed by the Lessee instead of the Lessor.

The Lessor will not be or become liable to any such Permitted Mortgagee as a result of the right and option to cure any such default or defaults by the Lessee. Notwithstanding the foregoing, those defaults which, by their very nature, are not reasonably susceptible to being cured (as, for example, the bankruptcy of the Lessee) shall not constitute grounds of enforcement of rights, recourses or remedies under the Permitted Mortgage by a Permitted Mortgagee, including foreclosure, if the Lessor (1) makes all payments and performs all obligations under the Permitted Mortgage, and (2) thereafter continues to comply with those provisions of the Permitted Mortgage.

8.3 Permitted Mortgagee Protective Provisions. The Lessor hereby agrees to the following for the benefit of any Permitted Mortgagee:

8.3.1 The Lessor shall not terminate this Lease (or Lessee's rights hereunder) for any Event of Default without first advising such Permitted Mortgagee, in writing, of such Event of Default and permitting such Permitted Mortgagee to cure such Event of Default on behalf of the Lessee within ninety (90) days after Lessor has given notice to such Permitted Mortgagee any Event of Default. If, during such

ninety (90) day period, the Permitted Mortgagee takes action to cure such Event of Default but is unable, by reason of the nature of the default involved, to cure such Event of Default within such period, then the Permitted Mortgagee, provided it promptly commenced its curative work promptly upon receipt of such notice and has diligently and continuously proceeded such curative work thereafter, shall have a reasonable time thereafter (determined on the basis of the nature of such Event of Default, but in no event to be less than three months) to cure the same, during which period the Lessor shall not terminate this Lease. Further, if any Event of Default is not cured within such period as provided above, and (1) the Permitted Mortgagee shall have given the notices necessary to commence foreclosure of its Deed of Trust prior to the expiration of such period and thereafter foreclosure is diligently prosecuted (unless the Permitted Mortgagee is enjoined or stayed from giving such notices or exercising its right of foreclosure, in which event such cure period shall be extended by the period of such injunction or stay provided that such Permitted Mortgagee shall diligently attempt to remove any such injunction or stay), and (2) the purchaser or assignee at the foreclosure has fully cured any monetary default or has promptly commenced to cure any non-monetary default that is not reasonably curable within thirty (30) days and thereafter diligently pursues completion thereof within a reasonable time thereafter in accordance with this Lease, then the Lessor will not terminate this Lease because of the occurrence of such Event of Default. The Lessor shall accept amounts paid or actions taken by or on behalf of any Permitted Mortgagee to cure any Event of Default during the periods described above. Nothing under this Section shall be construed to obligate a Permitted Mortgagee to either cure any Events of Default or foreclose the liens and security interests under its Permitted Mortgagee as a consequence of an Event of Default regardless of whether such Event of Default is subsequently cured. If the Permitted Mortgagee or the purchaser at foreclosure cures all such Events of Default on behalf of the Lessee which are reasonably susceptible of being cured by such Permitted Mortgagee or purchaser, then all other such Events of Default of the Lessee will no longer be deemed to be in default under this Lease.

8.3.2 Those Events of Default, which by their very nature, are not reasonably susceptible to being cured (as, for example, the bankruptcy of Lessee) shall not constitute grounds of enforcement of rights, recourses or remedies hereunder by the Lessor including termination of the Lease, if a Permitted Mortgagee either before or after a foreclosure of its Permitted Mortgagee (1) makes all payments and performs all obligations hereunder capable of being performed by the Permitted Mortgagee, and (2) thereafter continues to comply with those provisions of this Lease.

8.3.3 If a Permitted Mortgagee enforces the rights and remedies pursuant to the terms of its Permitted Mortgagee (including foreclosure of the Permitted Mortgagee) such enforcement shall not constitute an Event of Default by Lessee hereunder. The Permitted Mortgagee shall have the right, but not the obligation, to expel the Lessee upon the occurrence of an Event of Default and assume the position of the Lessee with all rights and duties under this Lease.

8.3.4 If a Permitted Mortgagee should foreclose its Permitted Mortgagee and should, as a result of such foreclosure, succeed to any of the rights of the Lessee hereunder, then such Permitted Mortgagee shall be subject to all the terms and conditions of this Lease and shall be entitled to all the rights and benefits of this Lease; provided, however, that (1) such Permitted Mortgagee shall not be liable for any act or omission of the Lessee; (2) such Permitted Mortgagee shall not be subject to any offsets or defenses which Lessor has, or might have, against the Lessee; (3) such Permitted Mortgagee shall not be bound by any amendment, modification, surrender or waiver of the terms of this Lease made without the prior written consent of such Permitted Mortgagee (which consent shall not be unreasonably withheld or delayed); (4) such Permitted Mortgagee shall have the obligation to pay all Land Rent; and (5) upon the written request of such Permitted Mortgagee, the Lessor shall reaffirm, in writing, the validity of this Lease, and that this Lease is in full force and effect.

8.3.5 The Lessor will not agree to any amendment, modification, surrender or waiver of the terms of this Lease without the prior written consent of each Permitted Mortgagee.

8.3.6 In the event of the termination of this Lease prior to the expiration of the Term, the Lessor will serve upon any Permitted Mortgagees written notice that this Lease has been terminated together with a statement of any and all sums which would have at that time been due under the Lease but for such termination and of all other Events of Default, if any, under this Lease then known to the Lessor whereupon the Permitted Mortgagee holding the most senior Deed of Trust on all or any portion of the Premises subject to a Permitted Mortgage shall have the option, but not the obligation, to obtain, with the same terms and conditions of this Lease (except the identity of the Lessees), a new lease of all or any portion of the Premises subject to that Permitted Mortgage, subject to government approval as required by NCGS § 146-27, as amended, by giving notice to the Lessor to such effect within ninety (90) days after receipt by such Permitted Mortgagee of notice of such termination which new lease shall be (1) effective as of the date of termination of this Lease, (2) for the remainder of the Term, and (3) at the same Premises Rent and upon all of the agreements, terms, covenants and conditions hereof. Upon the execution of such new lease, the lessee named therein shall pay any and all sums which at the time of the execution thereof would be due under this Lease but for such termination, together with any expenses of the Lessor, including, without limitation, reasonable attorney's fees, court costs and disbursements incurred by the Lessor in connection with the Event of Default and such termination, the recovery of possession of the Premises and the preparation, execution and delivery of such new lease.

8.3.7 All notices given hereunder by the Lessor to the Lessee shall also be given concurrently to each Permitted Mortgagee who has previously designated its address in writing to the Lessor.

8.3.8 The Permitted Mortgagee or any other person succeeding to the interests of the Lessee through a foreclosure will be subject to all of the terms and conditions of this Lease except as otherwise expressly provided in this Lease. Foreclosure for purposes of this Lease shall include a conveyance in lieu of foreclosure.

8.3.9 The liability of the Permitted Mortgagee under the Lease will be limited to the period during which the Permitted Mortgagee may own the interest of the Lessee hereunder. Upon the Permitted Mortgagee's assignment or transfer of its rights and interests in and to this Lease to a third party, the Permitted Mortgagee will have no further liability for any obligation arising after such transfer date, such liability will be borne by the assignee or transferee.

## ARTICLE IX MISCELLANEOUS

### 9.1 Environmental Matters.

9.1.1 The Lessee shall not knowingly cause or permit Hazardous Material (as hereinafter defined) to be brought upon, kept, or used in or about the Premises by the Lessee, its sublessees, agents, employees, contractors, or invitees, except for such Hazardous Material as is necessary for the operation of the business of the Lessee or any sublessee. Any such Hazardous Material used for the business of the Lessee or any sublessee shall be handled, stored and disposed of in accordance with applicable laws, rules and/or regulations.

9.1.2 As used herein, the term "*Hazardous Material*" means (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and the regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation, Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder; (iii) any material or substance regulated by the Toxic Substances Control Act as amended from time to time and regulations promulgated thereunder; (iv) any material or substance regulated by the Federal Insecticide, Fungicide and Rodenticide Act, as amended from time to

time, and the regulations promulgated thereunder; (v) any oil, petroleum products, and their by-products; and (vi) any other hazardous, toxic or dangerous material or substance that is or become regulated by any federal, state or local law or regulation.

9.1.3 Prior to the commencement of construction of any Improvements on the Premises, the Lessee shall cause an environmental audit regarding the portion of the Premises occupied by such Improvements to be conducted by a qualified environmental auditor selected by the Lessee consisting at a minimum of a Phase I audit and at such additional levels as is reasonably sufficient to determine the environmental condition of the pertinent portion of the Premises at the commencement of the Improvements. The cost of the environmental audit and any clean-up undertaken by the Lessee shall be borne by the Lessee. The Lessor makes no representations regarding any environmental hazard on the Premises. The Lessee shall, at the Lessee's sole expense, remediate environmental conditions revealed by the environmental audit to the applicable standards contained in the North Carolina Administrative Code Rules enforced by the North Carolina Department of Environment and Natural Resources (NCDENR). If, upon completion of the environmental audit, the Lessee, in its sole discretion, determines that environmental hazards located on the pertinent portion of the Premises make it unsuitable for the Lessee's purposes, the Lessee may, with the prior written consent of any applicable Permitted Mortgagee, and by written notice to Lessor, terminate this Lease as to the pertinent portion of the Premises. If the remediation plan proposed by the Lessee is not approved by NCDENR, which approval shall be consistent with published rules and not unreasonably withheld, this Lease shall be terminated by the Lessor by written notice.

9.2 Time of the Essence. In all instances where the Lessee or the Lessor is required hereunder to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood and stipulated that time is of the essence.

9.3 Notice and Payment. Any notice or payment which may or shall be made under the terms of this Lease shall be in writing (in the case of a notice) shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid, or by a nationally recognized overnight delivery service, to the address set out in Article I hereof or to such address as may be contained in a notice given as provided above.

9.4 Short Form. Upon request by either party, the parties shall execute and record a memorandum or short form of this Lease setting forth such provisions hereof as either party any wish to incorporate.

9.5 Entire Agreement. This Lease and any written addenda referred to herein and all exhibits hereto expressly referred to herein (which are expressly incorporated herein by this reference) shall constitute the entire agreement between the Lessor and the Lessee and no prior written or prior or contemporaneous oral promises or representations shall be binding. This Lease shall not be amended, changed or extended except by written instrument signed by both parties hereto.

9.6 Interpretation; Governing Law. Pronouns, where used herein, of whatever gender, shall include natural persons, corporations, and associations of every kind and character, and the singular shall include the plural and vice versa where and as often as may be appropriate. Article and section headings under this Lease are for convenience of reference and shall not affect the construction or interpretation of this Lease. Whenever the terms "*hereof*," "*hereby*," "*herein*," or words of similar import are used in this Lease, they shall be construed as referring to this Lease in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "*Article*" or "*Section*" shall be construed as referring to the indicated Article or Section of this Lease. Statements herein in respect to compliance with applicable law text of similar import shall be construed to require compliance with applicable law as now or hereafter in effect. The law of the State of North Carolina and

applicable federal law shall govern the validity, performance and enforcement of this Lease, and this Lease shall be construed pursuant to such laws.

9.7 Binding Effect. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and the heirs, executors, administrators, successors and assigns of the parties hereto, but this provision shall in no way alter the restrictions on assignment and subletting applicable to the Lessee hereunder.

9.8 Relationship of the Parties. This Lease shall not act to create the relationship of partner or joint venturer between the Lessor and Lessee.

9.9 Severability. In the event any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and enforceable to full extent permitted by law.

9.10 Construction of Lease; Negotiation by the Parties. The Lessor and Lessee have each had an opportunity through their appointed representatives or otherwise to discuss and negotiate the terms of this Lease and are informed and capable of evaluating the contents thereof. Accordingly, this Lease shall be constructed simply according to its fair meaning and not strictly for or against the Lessor or Lessee whether or not a specific provision thereof was drafted by or on behalf of the Lessor or Lessee, as the case may be.

9.11 Liability. The Lessor is an immune sovereign and is not ordinarily subject to suit. However, the Lessor has enacted the North Carolina Tort Claims Act (the "*Act*"), pursuant to which the Lessor may be liable for the torts of its officers and employees, within the terms of the Act. Accordingly, the Lessor will be primarily liable for any claims within the coverage of the Act. Concerning general liability, the Lessor claims sovereign immunity and therefore cannot be sued without its permission. However, by statute (Chapter 143, Article 31), the Lessor has waived its sovereign immunity as provided in the Act (up to a limit of \$500,000.00). The North Carolina Industrial Commission is constituted a court for the purpose of hearing and passing upon tort claims against departments, institutions or agencies under the Act.

9.12 Force Majeure. The Lessor will have no liability to the Lessee, nor will the Lessee have any right to terminate this Lease or abate rent or assert a claim of partial or total actual or constructive eviction, because of the Lessor's failure to perform any of its obligations in this Lease if the failure is due to reasons beyond Lessor's reasonable control, including without limitation strikes or other labor difficulties; inability to obtain necessary governmental permits and approvals (including building permits or certificates or occupancy); unavailability or scarcity of materials; war; riot; civil insurrection; accidents; act of God; and governmental obligations because of any reasons beyond the Lessor's reasonable control (including those enumerated above), the period for the Lessor's performance will be extended day for day for the duration of the cause of Lessor's failure. Whenever a period of time is prescribed for action by the Lessee or a Permitted Mortgagee, the Lessee and/or such Permitted Mortgagee will not be responsible for, and there will be excluded from the computation of such period of time, any delays due to any (a) act of God, adverse and inclement weather, fire, explosion, flood, act of a public enemy, war, blockade, insurrection, riot, or civil disturbance, (b) labor dispute, strike, work slowdown or work stoppage, (c) order or judgment of any entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise) whether now or hereafter in existence, if not the result of willful or negligent action of the Lessee, (d) adoption of or change in any applicable laws after the date of execution of this Lease, (e) any actions by the Lessor which may cause delay, or (f) any other similar cause or similar event beyond the reasonable control of

the Lessee (collectively, "*Force Majeure*"). The Lessor shall not be obligated to recognize any delay caused by Force Majeure unless Lessee, within ten (10) days after the Lessee, or such Permitted Mortgagee, as the case may be, is aware of the existence of an event of Force Majeure, notifies the Lessor; provided, however, that neither the Lessee nor any Permitted Mortgagee shall be obligated to furnish notice of a Force Majeure caused by the Lessor.

9.13 No Waiver. The waiver by the Lessor or the Lessee of any agreement, condition, or provision contained in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other agreement, condition, or provision contained in this Lease, nor will any custom or practice that may grow up between the parties in the administration of the terms of this Lease be construed to waive or lessen the right of either party to insist upon the performance by the other party in strict accordance with the terms of this Lease.

**[Signature Pages Follow]**

**(Signature Page for Lessee)**

WHEREUPON, the Lessor and Lessee have executed the foregoing in their official names by signatures of their proper officials, with the official seals affixed, date and year first above written.

**GREENSBORO CENTER FOR INNOVATIVE  
DEVELOPMENT, INC.,**

[SEAL]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Signature Page for Lessor)

STATE OF NORTH CAROLINA

By: \_\_\_\_\_  
Michael F. Easley, Governor

ATTEST:

By: \_\_\_\_\_  
Elaine F. Marshall, Secretary of State

ATTEST:

Roy Cooper  
Attorney General

By: \_\_\_\_\_  
Assistant Attorney General

(SEAL OF THE STATE OF NORTH CAROLINA)

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_ came before me this day and acknowledged that he is the \_\_\_\_\_ of Greensboro Center for Innovative Development, Inc., and that by authority duly given and as an act of Greensboro Center for Innovative Development, Inc., the foregoing instrument was signed by the \_\_\_\_\_ of the corporation and sealed with the common seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this \_\_\_\_\_ of \_\_\_\_\_, 2006.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

[Notary Seal]

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, \_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_ and State of North Carolina, do hereby certify that ELAINE F. MARSHALL, Secretary of State of North Carolina, personally came before me this date and acknowledged that she is Secretary of State of North Carolina, and that by authority duly given and as an act of the State, the foregoing instrument was signed in its name by MICHAEL F. EASLEY, Governor of the State of North Carolina, sealed with the Great Seal of the State of North Carolina, and attested by herself as Secretary of State of North Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal, this the \_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
NOTARY PUBLIC

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

[Notary Seal]

**EXHIBIT A**  
**LEGAL DESCRIPTION OF LAND**

[To be inserted]

Lessor. Throughout the Term, any liens, encumbrances, mortgages, or claims of third parties, including construction lenders and permanent lenders, with respect to any interest in Land or Improvements that may be deemed owned by the Lessee or its sublessees shall be expressly subordinate and subject to the rights of the Lessor under this Lease, unless otherwise consented to by the Lessor under this Lease. During the Term, the Lessee shall be entitled to deduct all depreciation for the Improvements, and any additions, changes or alterations thereto.

2.2.2 Expiration of Lease. At the conclusion of the initial Term of this Lease or any renewal or extension thereof, the Lessee and its sublessees will promptly quit and surrender the entire Premises, which shall include the Land, as well as convey to the Lessor in fee simple absolute by special warranty deed, free and clear of all mortgages and liens, all the Improvements constructed or renovated by or on behalf of the Lessee or its sublessees on the Land, in good order, condition, and repair, ordinary wear and tear excepted, and in broom clean condition.

2.3 Use The Lessor's fundamental objectives in leasing the Premises, are to (1) enhance the teaching and research opportunities for the faculty and students of the Universities by providing them with a close association with educational, research or technologically-oriented entities and (2) foster economic growth and development opportunities for the region. Accordingly, the use of the Premises by the Lessee or its sublessees shall be restricted to either (a) research, education, development testing, fabrication and assembly in the fields of information technology, computer software/hardware development, advanced materials, engineering, biotechnology, environmental sciences, agriculture and life sciences and business management, (b) related light manufacturing, fabrication and assembly in conjunction with an ongoing research program with the Lessor or any of its constituent departments or state-supported educational institutions, (c) technology-related services (including but not limited to engineering, computer software, and consulting services), (d) academic facilities, (e) commercial and retail support services and (f) such other improvements that will enhance the teaching, research and service missions of the Lessor and the ability of the Lessee to attract sublessees that will foster economic development. The use of the Premises by the Lessee or its sublessees shall further conform to the *Joint Millennial Campus Physical Master Plan and Development and Design Guidelines* (the "JMC Master Plan") to be developed by the Lessee, approved by the Boards of Trustees of the Universities and made applicable to the Premises at or prior to the first sublease of any portion of the Premises by Lessee, which JMC Master Plan may thereafter be amended and/or restated upon proposal by the Lessee and approval by the Boards of Trustees of the Universities.

2.4 Assignment and Subleasing.

(a) Except as otherwise provided in this Lease with respect to a Permitted Mortgage, the Lessee shall not assign this Lease without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. If the Lessee desires to assign this Lease, the Lessee shall first advise the Lessor in writing of the name of the proposed assignee, the proposed use of the Premises and such financial information as the Lessor may reasonably require applicable to the proposed assignee. The Lessee shall also accompany such request for consent with a copy of the proposed assignment and any other agreements to be entered into concurrently with such assignment. It shall not be unreasonable for the Lessor to withhold its consent to a proposed assignment if the reputation, financial responsibility or business of the proposed assignee is reasonably unacceptable to the Lessor or if the intended use of the Premises by the proposed assignee is not identical to the use of the Premises authorized by the provisions of this Lease. Neither an assignment of this Lease, nor the Lessor's consent thereto, shall release or discharge the Lessee from any liability, past or future, under this Lease. For the purposes of this subparagraph (a), an assignment shall include any transfer of this Lease, whether voluntary or involuntary or by operation of law, but shall not include an assignment made in conjunction with a Permitted Mortgage.

(b) The Lessee may sublet the Premises or portions thereof without any requirement to obtain the Lessor's consent subject to the following conditions:

- (i) The use of the Premises by the sublessee shall comply with the use restrictions contained in Section 2.3 of this Lease;
- (ii) The Lessee shall not then be in default under this Lease;
- (iii) Any sublease shall provide that it is subject to the terms and conditions of this Lease and may, at the Lessor's option, require the sublessee to attorn to the Lessor;
- (iv) Neither any sublease nor the Lessor's implied or actual consent thereto shall release or discharge the Lessee from any liability, past or future, under this Lease;
- (v) The Lessee shall remain fully liable under this Lease upon notice in accordance with this Lease from Lessor of any default under this Lease;
- (vi) No subletting shall be for a term ending later than one (1) day prior to the expiration of the Term of this Lease;
- (vii) The Lessee shall deliver to the Lessor a duplicate original or a conformed copy of the sublease, along with evidence of the requirements of this Subparagraph (b) having been satisfied; and
- (viii) Such other criteria as may be implied by law.

(c) Lessee shall not assign any of its rights under this Lease separate from any assignment permitted under subparagraph (a) above, any subletting permitted under subparagraph (b) above or a Permitted Mortgage.

2.5 Premises Rent. The Premises Rent shall be One and No/100 United States Dollars (\$1.00 USD) for the Term, including any extension of the Term pursuant to a Renewal Option.

### ARTICLE III CONSTRUCTION OF IMPROVEMENTS

3.1 Plans and Specifications Review and Approval. The Lessee agrees to submit, and cause its sublessees to submit, complete architectural and engineering plans and specifications for the construction of any Improvements on the Premises for the prior review, but not approval, by (i) the State Construction Office and the North Carolina Department of Insurance if the construction costs for the contemplated Improvements exceed the dollar limitation set forth in N.C. Gen. Stat. §116-31.11 or (ii) the Universities in accordance with the authority delegated to the Universities by the Board of Governors of The University of North Carolina under The University of North Carolina Design and Construction Guidelines (the "UNC System Guidelines") if the construction costs for the contemplated Improvements do not exceed the dollar limitation set forth in N.C. Gen. Stat. §116-31.11. In addition, the Lessee shall cause its sublessees to submit to the Lessee, for the Lessee's prior written approval, not to be unreasonably withheld or delayed, complete architectural and engineering plans and specifications for any Improvements to be made to the Premises by such sublessees, which plans and specifications shall be prepared by architects and engineers previously approved in writing by the Lessee.