

AMENDED AND RESTATED LEASE AGREEMENT

by and between

CITY OF COLUMBUS, OHIO
Landlord

and

COLUMBUS URBAN GROWTH CORPORATION
Tenant

Dated May __, 2005

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**AMENDED AND RESTATED LEASE AGREEMENT
(NorthlandPARK)**

THIS AMENDED AND RESTATED LEASE AGREEMENT, is made as of the ____ day of May, 2005, by and between Landlord and Tenant, and is intended to amend and restate, in its entirety, the Original Lease.

- 1. Definitions.** The following definitions are applicable to this Lease:
- (a) "Approved Sublessee" means an individual or entity including a Buyer holding an interest in the Premises as the result of a lease, option, right of first refusal, purchase contract or other agreement with Tenant. In the case of a Sublessee, such Sublessee shall not be deemed an Approved Sublessee unless and until the provisions of Paragraph 12.2 are satisfied.
 - (b) "Buyer" shall mean any individual or entity that has executed a real property purchase contract with Tenant for the purchase of any portion of the Premises.
 - (c) "County" shall mean Franklin County, Ohio.
 - (d) "Governmental Approvals" means all governmental, quasi-governmental and utility company permits, licenses, consents, approvals and certificates required for the construction, use, occupancy, renovation, or demolition of any Improvements now existing or hereinafter constructed.
 - (e) "Governmental Regulations" means all laws, rules, orders, ordinances, regulations, statutes and requirements of federal, state, City, County and other governmental authorities now in effect.
 - (f) "Hazardous Material" means (a) any substance, the use, generation, storage, disposition or transportation of which is regulated by any federal environmental law, such as but not limited to CERCLA, RCRA and TSCA, any similar state law or any regulation under any such federal or state law, or (b) any explosive or incendiary device, whether or not so regulated.
 - (g) "Improvements" shall mean any improvements constructed or currently located on the Premises, including buildings, utilities and fixtures, but excluding any improvements currently maintained, or hereinafter installed by the City.
 - (h) "Landlord" means the City of Columbus, Ohio, a municipal corporation (sometimes also referred to herein as the "City").
 - (i) "Lease" means this Amended and Restated Lease Agreement by and between Landlord and Tenant.
 - (j) "NorthlandPARK Development" shall mean the area identified on Exhibit B.
 - (k) "Option" means the right of Tenant as granted in Paragraph 35 hereof.

- (l) "Original Lease" means that certain Lease Agreement made by and between Landlord and Tenant, dated December 24, 2003.
- (m) "Premises" means the real property (1) owned by Landlord and (2) described on Exhibit A attached hereto. The Premises shall include any appurtenant easements or other rights, as the same may be amended from time to time in a written amendment to this Lease signed by Landlord and Tenant. In the event that Landlord releases a portion of the Premises from this Lease in connection with Tenant's exercise of the Option contained herein, and all or any part of that released portion of the Premises is subsequently transferred back to Landlord by way of a recorded deed, such portion of the Premises shall once again be deemed a portion of the "Premises" for purposes of this Lease, and subject to the terms and conditions hereof. For the avoidance of doubt, any property dedicated to or accepted by Landlord for public use (e.g. rights of way) shall not constitute the "Premises" for purposes of this Lease.
- (n) "Property" shall mean that portion of the Premises which is subject to a real property purchase contract between Tenant and a Buyer.
- (o) "Rent" shall have the meaning set forth in Paragraph 4 of this Lease.
- (p) "Tenant" means Columbus Urban Growth Corporation, an Ohio nonprofit corporation, its successors or assigns as permitted under Paragraph 12 of this Lease.
- (q) "Term" means the term specified in Paragraph 3 of this Lease.

2. Demise of Premises. In consideration of the premises, Tenant's payment of the Rent and Tenant's performance of the other covenants contained herein, Landlord demises and leases the Premises and Improvements to Tenant; to have and to hold the same, for the Term, subject to all the terms of this Lease and the reservation of easements to operate, maintain, repair, and replace City-owned utilities as the same existed on the Premises as of the commencement of the Term.

3. Term. The Term of this Lease commenced on July 1, 2003, and is for a period of ninety-nine (99) years. Absent Tenant's express written election from time to time to the contrary or as otherwise provided herein, this Lease shall be deemed to automatically renew for an additional ninety-nine (99) year period, commencing upon expiration of the immediately preceding ninety-nine (99) year Term. All references to "Term" hereunder in this Lease shall include both the initial term and any renewal terms provided for in this Lease. All terms and conditions of this Lease shall remain in effect during any renewal term unless both parties hereto agree to a modification thereof. Except as otherwise provided herein, at all times during the Term of this Lease, Tenant shall be responsible for, and shall cause to be performed at Tenant's expense, all routine maintenance and repairs needed to maintain the Premises in substantial compliance with all laws, ordinances and regulations applicable to Tenant's use of the Premises in effect and applicable to the Premises at the commencement of the Term.

4. Rent.

4.01. Payment. Rent shall be due and payable pursuant to Exhibit C.

4.02. Submission of Auditor's Report. Tenant shall submit annually its auditor's reports to the Mayor, City Council and City Auditor, within sixty (60) days after the close of its fiscal year, or at such other time as is designated by the City Auditor as may be necessary for Landlord to comply with its annual reporting requirements. Such reports shall be certified as being in accordance with generally accepted accounting principles, or if designated by the City Auditor, in accordance with requirements of the Governmental Accounting Standards Board. The audits shall be completed by a firm of independent certified public accountants licensed to practice in the State of Ohio and acceptable to the City Auditor

4.03. Examination of Records. Tenant shall maintain complete and accurate books of account and records of its operations. These detailed records shall be kept in the main office of Tenant and shall be maintained for at least; (i) three (3) years after the completion of the financial audit and report or (ii) such period as required by Landlord's public records retention schedule if such reports are deemed to be subject to the Ohio Public Records Law. Landlord, at its discretion, shall have the right to inspect all such records. Such inspection shall be conducted during regular business hours and upon three (3) days prior written notice.

5. Maintenance and Repair, Casualty, Duty of Landlord.

5.01. Maintenance and Repair. On and after the commencement of the Term, Tenant shall at its sole cost and expense maintain the Premises and Improvements and will put, keep and maintain the same in good and safe order and condition and make all repairs therein and thereon as may be reasonably necessary to keep the same in a good and safe order and condition and in compliance with Governmental Regulations. When used in this Paragraph 5, the term "repairs" shall include all necessary replacements, renewals, alterations and additions. All repairs made by Tenant shall be of a quality consistent with the then-existing Improvements. At its own cost and expense, Tenant shall further keep clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the Premises and the Improvements. The Tenant shall be permitted to demolish, or cause to be demolished, any Improvements located on the Premises.

5.02. Casualty Repairs. If the Premises or any Improvements shall be destroyed or damaged in whole or in part by fire or other casualty, Tenant, out of the insurance proceeds, if any, paid in relation to such casualty shall, with due diligence, promptly repair such portions of the Premises and Improvements that Tenant, in consultation with Landlord, deems appropriate. Such repairs shall restore those portions of the Premises and Improvements to be repaired as nearly as possible to the character thereof which existed immediately prior to the occurrence of such fire or other casualty.

5.03. No Duty of Landlord. Landlord shall have no duty or obligation (but may agree) to make any alterations, changes, improvements, replacements or repairs to any

Improvements now or hereafter erected or maintained on the Premises and Tenant assumes responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises and Improvements.

6. Utilities. Tenant shall contract in its own name and be responsible for, and shall cause to be paid when due, all charges for electricity, natural gas, water and sanitary and storm sewer services, telephone and telecommunications equipment and services, used by Tenant in connection with the Premises during the Term of this Lease, and shall pay all fees and charges normally charged by utility service providers, and the City, to tap into or otherwise access utility services.

7. Insurance.

7.01. Public Liability Insurance. At all times on and after the commencement of this Lease and during the Term of this Lease at its sole cost and expense, Tenant shall carry and maintain general public liability insurance against claims for personal injury, wrongful death and property damage occurring on or about the Premises and/or the Improvements, with minimum amounts of \$1,000,000 on account of bodily injury to or death of any one Person, \$5,000,000 on account of bodily injury to or death of any number of Persons, arising out of any one occurrence and \$3,000,000 in case of damage to property arising out of any one occurrence. Notwithstanding anything contained in this paragraph to the contrary, and in recognition of the length of the Term, Landlord shall have the right to reestablish, by written notice to Tenant, minimum liability insurance obligations which, in terms of 2003 dollars, provide for the same minimum coverage specified in this paragraph, and Tenant shall comply with such reestablished minimum insurance obligations, if available.

7.02. Casualty Insurance. Except for existing buildings identified on Exhibit B, Tenant, at its sole cost and expense, shall insure the Improvements and the Premises at all times on and after the commencement of this Lease and during the Term against all loss or damage by fire, vandalism, malicious mischief and all other hazards, risks, casualties and perils in respect of which extended coverage and "all risk" insurance is available, in an amount equal to one hundred percent (100%) of the replacement cost thereof exclusive of land and foundations.

7.03. Insurance During Construction. During any period of construction of any of the Improvements, Tenant shall obtain, at its sole expense, or cause all contractors employed to do work on the Premises to carry, such insurance as may from time to time, be required by City, County, state or federal laws, codes, regulations or authorities, together with such other insurance as is reasonably necessary to appropriate under the circumstances.

7.04. Named Insureds. Tenant and Landlord shall be named as named insureds as their interest may appear, under the policies of insurance required to be carried and maintained under Paragraphs 7.01, 7.02 and 7.03 of this Lease by Tenant, its agents or sublessees.

7.05. Notice of Cancellation. Each policy of insurance is required to be carried and maintained by Tenant under Paragraphs 7.01, 7.02 and 7.03 shall provide that it cannot be cancelled or modified in such a manner as to adversely affect or reduce the coverage required pursuant to those provisions unless Landlord has been given notice of such proposed cancellation or modification in the manner provided in the applicable policy of insurance, at least thirty (30) days prior to such action being taken.

7.06. Evidence of Insurance; Losses; Blanket Coverage; Related Provisions. Originals, duplicate originals or certificates of each policy of insurance required to be carried and maintained by Tenant under this Paragraph 7, and renewal or other policies, as the case may be, or certificates thereof, shall be delivered by Tenant to Landlord promptly upon issuance or effectuation thereof by the insurer.

7.07. Waiver of Subrogation. To the extent permitted by Governmental Regulations, Landlord and Tenant each hereby waive any and all rights that they may have to recover from the other damages for any loss occurring to them by reason of act or omission of the other, but only to the extent that the waiving party is actually compensated therefore by insurance; provided that this waiver shall be effective only with respect to loss or damage occurring during such time as the waiving party's coverage under the appropriate policy of insurance is not adversely affected by this waiver. If, in order to avoid such adverse effect, an endorsement must be added to any insurance policy required hereunder, Landlord and Tenant shall cause such an endorsement immediately to be added and thereafter maintained throughout the Term.

8. Improvements and Alterations. All Improvements, equipment or machinery installed by Tenant or an Approved Sublessee shall at all times remain the property of Tenant or the Approved Sublessee, respectively, and may be removed, replaced or restored from time to time by Tenant or the Approved Sublessee during the Term of this Lease. Following the expiration or termination date of this Lease, all Improvements, equipment or machinery remaining on the Premises may be removed by Tenant or the Approved Sublessee at any time within 30 days thereafter.

9. Taxes and Fees.

9.01. Taxes and Assessments. During the Term, Tenant shall be responsible for and shall pay when due all intangible, personal sales, personal property and real estate taxes and assessments, both general and special and all other charges of any kind levied, assessed, charged, taxed or imposed by any governmental authority upon or in respect of the Premises and the Improvements including any tax or excise on rents levied or assessed by the State of Ohio or any political subdivision thereof against Landlord in respect of any rent payable hereunder in any form, as a substitution in whole or in part for taxes assessed or imposed by said state or any political subdivision thereof on land and buildings or on land or buildings.

9.02. Service Payments. The Landlord, pursuant to Ordinance No. 2628-2003, passed by Landlord's Council on December 15, 2003, and Ohio Revised Code Section 5709.40-.43, exempted 100% of the increase in the assessed value of the Premises from

real property taxation for a period of thirty (30) years and provided for the making of service payments in lieu of taxes by any owner of the Premises. Those service payments in lieu of taxes are to be paid to the Franklin County Treasurer in accordance with Ohio Revised Section 5709.40-43. Tenant shall pay or cause to be paid, when due, to the Franklin County Treasurer, any such service payments in lieu of taxes due and owing from Landlord resulting from the Landlord's ownership of any portion of the Premises.

9.03. Right to Contest Taxes or Other Charges. Tenant may (but shall not be required to) contest in its name or in the name of Landlord the amount or validity of any taxes, assessments or other charges which Tenant is required to pay as provided in Paragraph 9.01 of this Lease or to apply for the reduction thereof. Landlord shall notify (or shall make all necessary arrangements to have the appropriate governmental authorities notify) Tenant of any new or increased taxes, assessments or other charges which Tenant is obligated to pay under Paragraph 9.01 within sufficient time to permit Tenant to contest or appeal the same or to seek reassessment in respect thereof. Landlord upon request by Tenant, shall execute or join in executing all such documents as are necessary or desirable in connection with any such contest or appeal, and Landlord, upon request by Tenant and at Tenant's sole cost and expense, shall join and actively participate in prosecuting any such proceeding.

9.04. Tax and Other Statements. Landlord and Tenant shall make all necessary arrangements to have the appropriate governmental authorities send directly to Tenant or to Tenant's designees all pertinent statements and bills in respect of taxes, assessments, service charges and other charges to be paid by Tenant and Tenant shall, upon request by Landlord, promptly furnish to Landlord written evidence of the payment of any and all such statements and bills.

10. Additional Covenants of Landlord.

10.01. Landlord-Tenant Cooperation. Landlord's Department of Development shall cooperate with the efforts of Tenant (or of a Buyer or Approved Sublessee, as the case may be) to demolish, modify, plan, obtain approval for and/or construct Improvements, in all ways reasonably requested by Tenant, including but not limited to: (a) notifying building, zoning, utility, traffic, parking, road, sewer and any other necessary departments, entities and individuals of Landlord's approval of proposed Improvements; (b) working with Tenant in order to expeditiously obtain approvals from such departments; and (c) keeping members of Landlord's departments apprised of Tenant's activities on the premises, provided, said cooperation shall not be deemed as approval of any administrative or legislative body of Landlord required to be obtained to construct said Improvements; that Landlord shall not be required to incur any material extraordinary expense in connection with such efforts; and Tenant (or a Buyer or Approved Sublessee) shall be responsible for all design and construction work related to such Improvements.

10.02. Landlord's Covenants with Respect to Buyers.

(a) During the Term of this Lease and so long as a Buyer is not in material default of its obligations under its real property purchase contract with Tenant, that Buyer's right to purchase the Property shall remain undisturbed, without interference from Landlord.

(b) Upon receiving a written request from a Buyer, Landlord shall notify such Buyer of any default under the Lease by Tenant.

(c) In the event of a termination of this Lease as the result of a Tenant default, or if this Lease is terminated for any other reason whatsoever (other than the purchase of the Property by Tenant), any existing Buyer shall have the right to exercise the option to purchase set forth in Paragraph 35 of this Lease with respect to that portion of the Property which is the subject of the Buyer's purchase contract with Tenant, on the terms and conditions set forth in Paragraph 35 of this Lease, except that: (i) the purchase price for the Property shall be the greater of: (A) the purchase price set forth in Paragraph 35 of this Lease, or (B) the purchase price set forth in the Buyer's real property purchase contract with Tenant, and (ii) the term of the option to purchase shall be limited to the period of time equal to that which the Buyer would have had to close its purchase and sale transaction under the terms of the Buyer's real property purchase contract with Tenant.

(d) Landlord and Tenant agree that they will not amend, modify, alter or change this Lease in any way that would: (i) affect a Buyer's right to purchase the Property; (ii) affect a Buyer's ability and/or rights to develop and use the Property (as contemplated in that Buyer's real property purchase contract); (iii) materially affect the cost of developing and using the Property (as contemplated in that Buyer's real property purchase contract); (iv) materially and adversely affect Tenant's ability to consummate the purchase and sale of the Property; and/or (v) materially and adversely affect Tenant's ability to develop the balance of the Premises as contemplated by the real property purchase contract, without the prior written consent of Buyer.

(e) Landlord agrees that, upon receiving a request from Tenant or from a Buyer, Landlord shall execute a letter or document or provide such other written evidence of Landlord's recognition of either (i) the Buyer's right to purchase the Property from Tenant pursuant to the real property purchase contract or (ii) the Buyer's right to purchase the Property from Landlord pursuant to Paragraph 10.02(c) above, as being valid and enforceable.

(f) Any act required to be performed by Tenant pursuant to the terms of this Lease may be performed by a Buyer and the performance of any such act, to the extent that the same is properly performed, shall be deemed to be performance by Tenant; provided that, the fact that a violation or breach of any of the terms, provisions or conditions of this Lease results from or is caused by an act or omission of, or improper performance by a Buyer shall not relieve Tenant of Tenant's obligations under this Lease.

10.03. No Expansion of Buyer's or Landlord's Obligations. Landlord and Tenant acknowledge and agree that (unless voluntarily assumed by Buyer or Landlord) this Lease is not intended to, and shall not be deemed or interpreted so as to: (a) impose any liability, obligation or undertaking on a Buyer greater than that set forth in that Buyer's real property purchase contract; (b) except as set forth in Paragraph 35 below, impose any liability, obligation or undertaking upon a Buyer pursuant to this Lease; and/or (c) impose any obligations of Tenant, set forth in any real property purchase contract, on Landlord.

11. Liens.

11.01. Removal of Liens. If the Improvements or Tenant leasehold interest in the Premises or any part thereof shall at any time during the Term become subject to any lien, including any judgment lien, tax lien or vendor's lien, or any mechanic's lien, laborer's lien, materialmen's lien or other similar lien based upon the furnishing of materials, fuel, machinery, supplies or labor to the Improvements or to the Premises or to Tenant and not expressly contracted for in writing by Landlord, or if any lien shall be asserted against the Premises then (a) except in situations wherein the lien is and remains properly asserted (as reasonably determined by Landlord and Tenant) solely against the leasehold estate of any of Tenant, Tenant's sublessees, licenses or concessionaries, Tenant shall, within thirty (30) days after Landlord's written request and at Tenant's cost and expense, cause any claims or liabilities arising out of any such lien(s) to be insured against, for the benefit of Landlord on the policy of title insurance now existing in favor of Landlord in respect of the Premises as such policy or policies are further identified on Exhibit E, attached hereto and incorporated herein by this reference (or any policy procured by Landlord in the future) and (b) Tenant shall cause any such liens to be discharged at its sole cost and expense within ninety (90) days after Tenant shall have actual knowledge of the existence of any suit, action or other proceeding to foreclose the lien or to seek execution upon the Improvements or the Premises, unless (i) such lien and the claim occasioning it are contested or litigated in good faith by Tenant, at its sole cost and expense, or (ii) Tenant provides a bond (with surety) sufficient to insure that, upon final determination of the validity of such lien or claim, any final judgment rendered against Tenant and/or Landlord together with all related costs and charges, will be fully paid.

11.02. Liens Prohibited. Nothing in this Lease shall be construed as constituting the express or implied consent or request of Landlord to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials, fuel, machinery or supplies or any specific improvement of, alteration of or repair to the Premises or any improvement thereto, nor as giving Tenant any right, power or authority to act as agent of the City to contract for, or to permit the performance or furnishing of any labor materials, fuel, machinery or supplies on any basis which would entitle any Person to assert and/or perfect a mechanics' lien or other claim encumbering the interests of Landlord in the Premises. Landlord may (but shall not be required to) post and maintain at the Premises any notices, which Landlord may deem appropriate for the protection of the Premises from efforts by others to perfect or assert mechanics' liens or other claims in respect of Landlord's interests in or to the Premises.

12. Assignment and Subletting.

12.01. Assignment. Tenant may assign this Lease to any entity that it controls, is controlled by, or is under common control with, Tenant. Tenant shall not assign or transfer this Lease to anyone else without the prior written consent of Landlord, which consent shall be by ordinance of its council and may be withheld for any reason.

12.02. Subletting of Premises.

(a) With the exception of the existing sublease(s) identified on Exhibit F, attached hereto and incorporated herein by this reference, Tenant may not sublet the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld. In determining whether to grant consent to the Tenant's sublet request, Landlord may consider any reasonable factor. Landlord and Tenant agree that any one of the following factors, or any other reasonable factor, will be reasonable grounds for deciding Tenant's request:

- (i) financial strength of the proposed sublessee;
- (ii) the business reputation of the proposed sublessee;
- (iii) the rent shall be reflective of local market rents for similar or comparable uses;
- (iv) such subletting shall not release Tenant from the due performance of all of the terms, covenants and conditions contained in this Lease on its part to be performed;
- (v) the type or character of the business or use to be conducted by the proposed sublessee shall be reasonably acceptable to Tenant, shall be for a purpose in keeping with the character and quality of the overall development of the Premises (including any portions purchased pursuant to Paragraph 35 of this Lease), and compatible with existing zoning.

(b) Landlord shall evidence its consent or disapproval within thirty (30) days of receipt of written notice from Tenant of any proposed sublease. If Landlord disapproves any proposed sublease Landlord shall state its reasons therefore. For purposes of providing its consent, the Director of Development, or the Director of a successor city department, may provide consent of Landlord provided that such consent of the Director shall make written findings setting forth that the sublease meets one or more of the items (i) through (v) above.

12.03. Conditions of Subletting Any Part of the Premises or the Improvements. In connection with any sublease, license or concession granted by Tenant in or to all or any part of the Premises, Tenant covenants and agrees that:

(a) No sublease or grant of license or concessions by Tenant in or to the Premises shall release or relieve Tenant from any of its obligations under this Lease;

(b) Promptly upon Landlord's demand: (i) Tenant shall furnish to Landlord a written summary of each and every sublease, license or concession in or to any part of the Premises and (ii) Tenant shall make available to Landlord each and every sublease, license or concession in or to any part of to the Premises for the purpose of Landlord's review and copying of the same at Landlord's sole cost and expense;

(c) Tenant agrees to and shall indemnify and hold Landlord harmless from and against any and all liabilities, claims, actions, causes of action, costs and expenses, including reasonable attorney's and paralegal's fees, arising out of any subleases, licenses or concessions entered into by Tenant in respect of the Premises;

(d) Under any subleases, licenses or concessions requiring the payment to Tenant of stated, fixed rentals, at no time shall Tenant collect said stated fixed rentals for periods greater than one month in advance;

(e) Any act required to be performed by Tenant pursuant to the terms of this Lease may be performed by any sublessee, licensee or concessionaire and the performance of any such act, to the extent that the same is properly performed, shall be deemed to be performance by Tenant; provided that, the fact that a violation or breach of any of the terms, provisions or conditions of this Lease results from or is caused by an act or omission of, or improper performance by, any sublessee, licensee or concessionaire shall not relieve Tenant of Tenant's obligations under this Lease.

13. Permitted Uses. Tenant may use the Premises for all lawful purposes.

14. Other Restricted Uses. Tenant shall not use the Premises or permit to be done anything that would create objectionable noises, odors, or nuisances, public or private, and all Governmental Regulations shall, in all respects and at all times be complied with by Tenant.

15. Hazardous Materials. Tenant shall (i) not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises by Tenant, its agents, employees, contractors, invitees, sublessees or licensees without prior consent of Landlord, which Landlord may withhold for any or no reason. If Tenant breaches the obligations stated in the preceding sentence, or if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damage resulting therefrom, then indemnify, defend, and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse

impact on marketing of space, and sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees) that arise during or after the Term as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local government agency or political subdivision because of Hazard Materials present in the soil or groundwater on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take at its sole expense all actions as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

16. Liability and Indemnity. Landlord shall not be liable to Tenant, Buyers or to Tenant's sublessees, agents, employees, guests, licensees or invitees, or to any persons claiming by, through or under Tenant, for any injury to person, loss of or damage to property, or loss or damage to Tenant's business, resulting from any cause whatever other than Landlord's negligence or willful wrong. Tenant shall indemnify Landlord against all losses, claims, damages and expenses, including attorney's fees, that Landlord may incur in defending against, compromising or satisfying any such claim that may arise from any actual or alleged negligent act or omission of Tenant.

17. Condemnation. If any part of the Premises is condemned for public purposes or transferred under threat of condemnation, or if access to the Premises is materially altered, then Tenant shall have the right, exercisable by notice given to Landlord not later than the date on which possession of the condemned property is surrendered to the condemning authority, to terminate this Lease as of the date of such notice. Tenant shall have no interest in any award or other compensation for the taking or damaging of the Premises as such, but Tenant shall be entitled to any award to the extent it relates to Improvements constructed on the Premises by Tenant, to any award for damage to Tenant's business or Tenant's personal property, and to any relocation allowance that may be paid by the condemning authority.

18. Development Standards. Tenant shall establish and enforce reasonable standards for site development, architecture, graphics, and landscaping for the Premises that shall be no less than the minimum standards required by (i) the applicable City of Columbus Code provisions in effect at the time of such standards are established, (ii) the Northland Development Standards adopted by Columbus City Council in 1992, and (iii) the Morse Road Planning Overlay adopted by Columbus City Council in 2002.

19. Early Termination by Tenant. At any time during the Term of this Lease, Tenant may terminate this Lease by notice to Landlord and Landlord, upon receipt of such notice, shall execute any document prepared by Tenant confirming such release. Termination under this subparagraph shall be effective on the date specified in Tenant's notice (the "Early Termination Date"). Until the Early Termination Date occurs, Tenant shall continue paying Rent

as though such notice of termination had not been given. The provisions of Paragraph 22 shall apply to any termination under this paragraph.

20. Events of Default. The following shall constitute Events of Default by Tenant hereunder:

(a) Failure by Tenant to pay any installment of Rent when due, if such failure continues for 30 days after Tenant's receipt of written notice from Landlord;

(b) failure by Tenant to correct, within 30 days after Tenant's receipt of Landlord's written request for such correction, any other deficiency in Tenant's performance of Tenant's obligations under this Lease, provided, that if such deficiency cannot as a practical matter be cured within such 30-day period, then an Event of Default shall not exist by reason of the deficiency if Tenant begins to correct the deficiency within such 30-day period and thereafter continues with reasonable diligence to complete the correction;

(c) Tenant's filing of a voluntary petition for relief under any chapter or provision of the federal Bankruptcy Code, unless such petition is withdrawn or dismissed within 90 days after the filing thereof; or

(d) the filing against Tenant of any involuntary petition for relief under any chapter or provision of the federal Bankruptcy Code, unless (i) such petition is withdrawn or dismissed within 90 days after the filing thereof.

21. Landlord's Remedies. Upon the occurrence of any Event of Default mentioned in Paragraph 20 above, and subject to all other provisions of this Lease, Landlord shall have the right to exercise any one or more of the following remedies:

(a) Landlord may terminate this Lease, effective at such time as may be specified by notice to Tenant, and demand (and if such demand is refused, recover) possession of the Premises from Tenant. Notwithstanding such termination, Tenant shall remain liable for any previously unpaid rent.

(b) Landlord may bring separate actions against Tenant from time to time to collect any one or more delinquent installments or payments of rent due under this Lease.

(c) Landlord may perform any act or pay any sum, the nonperformance or nonpayment of which is or would be an Event of Default by Tenant, and Tenant shall reimburse Landlord upon demand for any cost or expense incurred by Landlord in performing such act or paying such sum.

Exercise of any of the foregoing remedies shall not prevent the concurrent or subsequent exercise of any other remedy provided for herein or otherwise available to Landlord at law or in equity.

22. Limitation on Early Termination. Notwithstanding the provisions of Paragraph 19 above, Landlord shall not cause or acquiesce in the termination of this Lease before

the end of the Term, by accepting a voluntary surrender of Tenant's interest, by exercising a right to terminate under 21, or otherwise, except in compliance with the provisions of this paragraph.

(a) If Landlord notifies Tenant of any claimed default or Event of Default by Tenant, Landlord shall simultaneously send a copy of the notice to any Buyer or Approved Sublessee. Notwithstanding the provisions of Paragraph 21, Landlord may not exercise any remedy that would interfere with possession of the Premises by Tenant or those claiming under Tenant if, within the time permitted to Tenant to prevent any default from becoming an Event of Default, Tenant, Buyer or a Approved Sublessee cures or tenders a cure of the default. Landlord shall accept payment or other performance from a Buyer or Approved Sublessee in the same manner and with the same effect as though such payment or performance were tendered by Tenant.

(b) In the event Tenant becomes the subject of an order for relief under any chapter or provision of the federal Bankruptcy Code, a Buyer or Approved Sublessee may, at their option, notify Landlord of the election by such Buyer or Approved Sublessee to assume this Lease and cure all existing payment defaults by Tenant, in which case Landlord shall, within ten days after the giving of such notice, offer (contingent only on the tender by the Buyer or Approved Sublessee of cure of all existing payment defaults on the part of Tenant) to enter into a new lease, directly with the party tendering such cure, for a term equal to the unexpired Term of this Lease and otherwise on the same terms and provisions as are contained in this Lease. Upon the execution and delivery of such new lease, this Lease shall terminate automatically and be of no further force or effect.

23. Tenant's Remedies. Landlord's obligations under this Lease may, subject to the rules of law governing the availability of such remedies generally, be enforced by injunction or specific performance, and any breach thereof may be redressed in an independent action for direct, compensatory damages. In the event of a default by Landlord that continues for more than 30 days after notice from Tenant, Tenant may also, at Tenant's option, terminate this Lease by notice to Landlord.

24. Surrender of Premises; Holding Over. Upon the expiration or earlier termination of this Lease, or on or before the date specified in any demand for possession by Landlord pursuant to Paragraph 21 above, Tenant shall surrender possession of the Premises to Landlord. If Tenant holds over after the expiration of the Term of this Lease by lapse of time, with Landlord's consent but without written agreement providing otherwise, then Tenant shall be deemed to be a lessee from month to month, at a monthly amount agreed to between Landlord and Tenant and subject to all of the other provisions of this Lease.

25. Subordination. This Lease and Tenant's interest in the Premises shall be junior and subordinate to any mortgage or deed of trust now or hereafter encumbering the Premises, provided the mortgagee or beneficiary thereunder has agreed in writing not to disturb Tenant's use and occupancy of the Premises during the Term of this Lease (so long as no Event of Default has occurred and continued beyond any applicable grace period), and to recognize the rights of any Buyer or Approved Sublessee under this Lease. Tenant shall also, if any mortgagee or deed of trust beneficiary so requires, execute such documents as may be necessary to make this Lease

and Tenant's interest in the Premises prior and superior to any such mortgage or deed of trust. Concurrently with the execution and delivery of this Lease, Landlord shall execute and deliver, and shall cause the holder of any existing mortgage, deed of trust or other lien that encumbers the Premises to execute and deliver, a non-disturbance agreement reasonably satisfactory to Tenant.

26. Estoppel Certificates. Tenant shall from time to time, within 30 days after Landlord's request therefore, execute, acknowledge and deliver to Landlord a written statement certifying that this Lease is unmodified (or if modified, stating the modifications) and in full force and effect, the dates to which rent has been paid, and whether or not Landlord is in default hereunder (and if so, specifying the nature of the default), it being intended that any such statement may be relied upon by a prospective purchaser or mortgagee of Landlord's interest in the Premises.

Landlord shall from time to time, within 30 days after Tenant's request therefore, execute, acknowledge and deliver to Tenant a written statement certifying that this Lease is unmodified (or if modified, stating the modifications) and in full force and effect, the dates to which rent has been paid, and whether or not Tenant is in default hereunder (and if so, specifying the nature of the default), it being intended that any such statement may be relied upon by a prospective purchaser of an interest in the Premises.

27. Notices. Any notice required or permitted to be given under this Lease must be in writing and will be deemed given (a) on personal delivery during normal business hours, (b) on the fourth business day (*i.e.*, a day on which commercial banks in Columbus, Ohio, are open for business) after mailing by registered or certified U.S. mail, postage prepaid, or (c) on the first business day after prepaid deposit with a major overnight courier service that guarantees next-business-day delivery, under circumstances such that the guaranty is applicable, in any case to the appropriate party at such party's address for notices. The addresses for notices are as follows:

If to Landlord:

Director of Development
City of Columbus
50 West Gay Street
Columbus, Ohio 43215

with copy to:

City Attorney's Office
Real Estate Division
109 South Front Street
4th Floor
Columbus, Ohio 43215
Attn: Section Chief

If to Tenant:

Columbus Urban Growth Corporation
415 East Main Street
Columbus, Ohio 43215
Attn: Managing Director

with copy to:

Peck, Shaffer & Williams LLP
175 South Third Street
Columbus, Ohio 43215
Attn: Stephen P. Grassbaugh

Either party may change its address for notices or copies of notices by notice to the other party in accordance with this article. If so requested in writing by any mortgagee or deed of trust

beneficiary, Tenant shall deliver or mail a copy of any such notice (or specified type of notice) intended for Landlord to such lessor, mortgagee or deed of trust beneficiary. If so requested by a Buyer and pursuant to Paragraph 10.02(b), Landlord shall deliver notice of Tenant default to such Buyer in accordance with this Paragraph 27 at such address as is provided by Buyer.

28. Brokerage. Tenant and Landlord represent and warrant to each other that neither party has dealt with any broker or finder in connection with this Lease.

29. Intentionally Omitted.

30. Entire Agreement; No Waiver. This Lease, the exhibits thereto referred to above, and any addendum thereto signed by both Landlord and Tenant, constitute the final and complete expression of the parties' agreements with respect to the Premises and Tenant's occupancy of the Premises. Each party agrees that it has not relied upon or regarded as binding any prior agreements, negotiations, representations or understandings, whether oral or written, except as expressly set forth herein. No provision of this Lease may be amended or waived except by written instrument signed by the party to be charged with such amendment or waiver.

31. Applicable Law. This Lease shall be construed and enforced in accordance with the internal laws of the state in which the Premises are located.

32. Force Majeure. Notwithstanding any other provision of this Lease, neither party shall be in default by reason of such party's failure to perform an obligation under this Lease of and to the extent such failure is caused by acts of God, civil disorder, strike or other labor unrest, or any other cause beyond the reasonable control of such party, and any time period for performance under this Lease shall be extended by a period equal to the period during which performance is precluded by any such cause or causes.

33. Severability; Captions. If any clause or provision of this Lease shall be held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and there shall be deemed substituted for the affected clause or provision a valid and enforceable clause or provision as similar as possible to the affected clause or provision. The paragraph and subparagraph captions used in this Lease are included for convenience only, and shall be irrelevant to the construction of any provision of this Lease.

34. Binding Effect. The provisions of this Lease shall bind and benefit Landlord and Tenant and their respective heirs, personal representatives, successors and assigns.

35. Option to Purchase. Landlord hereby grants Tenant the exclusive option to purchase the Premises or any portion thereof for the purpose of developing or redeveloping the Premises or any portion thereof for the purpose of selling the Premises with or without Improvements built in whole or in part thereon or any portion thereof. Tenant shall exercise the option to purchase the Premises or any portion thereof granted hereby by providing notice to Landlord. All costs in connection with survey, legal description, title commitment, title insurance, and transfer fees shall be the responsibility of Tenant (or Buyer in the event of a sale pursuant to Section 10.02(c) hereof). The purchase price to be paid for the Premises shall be calculated as set forth on Exhibit D.

36. Prevailing Wage. In accordance with Columbus City Code Section 329.29.1, in the construction of Improvements on the Premises, Tenant and its sublessees shall pay, the Prevailing Wages or cause to be paid, prevailing wage rates as determined and defined in accordance with Chapter 4115 of the Revised Code. All subleases entered into by Tenant shall contain a provision requiring its sublessee to pay prevailing wages in the construction of any Improvements with the subleased premises. Unless Section 329.29.1 is specifically waived in the ordinance approving the sublease, Landlord approval of a sublease without a similar provision shall not waive the requirement of sublessee paying prevailing wages.

37. Memorandum of Lease. Landlord and Tenant agree that this Lease shall not be recorded and that a Restated Memorandum of Lease setting forth the identification of Landlord and Tenant, the Premises, the Term, and any other provisions of this Lease agreed to between Landlord and Tenant shall be executed and recorded.

38. Quiet Enjoyment. Landlord covenants that so long as Tenant faithfully performs Tenant's obligations under this Lease, Tenant will not be disturbed in Tenant's possession of the Premises during the Term of this Lease by Landlord or by anyone claiming by, through, or under Landlord and their respective successors and assigns.

39. Exhibits. All exhibits attached hereto (Exhibits A, B, C, D, E and F) are expressly incorporated herein by reference.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease by their duly authorized representatives as of the day and year first mentioned above to be effective as of July 1, 2003.

Landlord:

City of Columbus, Ohio,
a municipal corporation

By: _____
Name: Mark Barbash
Title: Director of Development

Tenant:

Columbus Urban Growth Corporation,
an Ohio nonprofit corporation

By: _____
Name: Odis Jones
Title: Managing Director and CEO

This Lease executed on behalf of Landlord pursuant to Ordinance No. _____
passed on _____.

STATE OF OHIO)
)
FRANKLIN COUNTY)

The foregoing instrument was acknowledged before me on this ____ day of May, 2005 by Mark Barbash, the Director of Development of the City of Columbus, Ohio, a municipal corporation, on behalf of said municipal corporation.

[SEAL]

Notary Public – State of Ohio

STATE OF OHIO)
)
FRANKLIN COUNTY)

The foregoing instrument was acknowledged before me on this ____ day of May, 2005 by Odis Jones, the Columbus Urban Growth Corporation, an Ohio nonprofit corporation, on behalf of said corporation.

[SEAL]

Notary Public – State of Ohio

EXHIBIT A

Premises

EXHIBIT B

NorthlandPARK Development

EXHIBIT C

Rent

Rent shall be an aggregate annual Rent in an amount equal to ninety percent (90%) of Cash Flow as defined herein. Rent shall be due and payable annually on October 30 of each year during the Term of this Lease. The term "Cash Flow" as used in this Paragraph 4 shall mean, with respect to any fiscal year of Tenant, the Net Income, as determined on a cash basis of accounting, to Tenant from all operations of Tenant in connection with the NorthlandPARK Development, subject to the following adjustments. The term "Net Income" as used in this Paragraph 4 shall mean all of Tenant's cash revenues less all of Tenant's expenses (including overhead, development, and due diligence costs) in connection with the NorthlandPARK Development in each year. For purposes of calculating Tenant's Net Income for a given year:

- (a) There shall be added to Tenant's revenues:
 - (i) any amount claimed by Tenant for depreciation or amortization of tangible and intangible property and assets located on or related to the Premises;
 - (ii) any other items claimed or deducted by Tenant in relation to the Premises (which items do not involve cash expenditures); and
 - (iii) all rent paid to Tenant by an Approved Sublessee;
- (b) There shall be added to Tenant's expenses:
 - (i) the amount of any prior year's loss related to the NorthlandPARK Development, not previously added to a subsequent-year's expenses;
 - (ii) any other cash expenditures on, or related to the NorthlandPARK Development, for items not otherwise deducted, depreciated, or amortized; and
 - (iii) the net proceeds received from sales, condemnations, loss or damage to the NorthlandPARK Development in whole or in part.

On the October 30 of each year during the term of this Lease, Tenant shall submit copies of financial statements setting forth the relevant Cash Flow computations required to determine Rent, whether a rent payment is due or not, in accordance with generally accepted accounting principles consistently applied.

Landlord Initials _____
Date _____

Tenant Initials _____
Date _____

EXHIBIT D

Option Purchase Price Calculation

Paragraph 1; Option Price. The purchase price to be paid for the Premises for any portion thereof by Tenant (the "Option Price") shall equal the number of acres to the one hundredth of an acre times the following per acre amounts:

- (a) During the first year of the Term of this Lease:
 - (i) With respect to the 33 1/3% of the acres in the north portion of the Premises and being generally the "frontage" along Morse Road (the "Northland Frontage") designated as Area "A" on the attached Appendix 1, \$176,000 per acre.
 - (ii) With respect to the 33 1/3% of the acres in the middle of the Premises (the "Middle Ground") designated as Area "B" on the attached Appendix 1, \$117,000 per acre.
 - (iii) With respect to the 33 1/3% of the acres in the south portion of the Premises (the "South Lands"), designated as Area "C" on the attached Appendix 1, \$58,000 per acre.
- (b) Beginning in the 2nd year and during each subsequent year during the Term of this Lease:
 - (i) With respect to the Northland Frontage, the amount set forth in Paragraph 1(a)(i) above, plus an additional 1% for each year after the first year of the Term of this Lease;
 - (ii) With respect to the Middle Ground, the amount set forth in Paragraph 1(a)(ii) above, plus an additional 1% for each year after the first year of the Term of this Lease; and
 - (iii) With respect to the South Lands, the amount set forth in Paragraph 1(a)(iii) above, plus an additional 1% for each year after the first year of the Term of this Lease.
- (c) With respect to sites that overlap between the Northland Frontage and the Middle Ground, or between the Middle Ground and the South Lands, the purchase price during the first year, second year, or third year and thereafter during the Term of this Lease shall be agreed to between the parties based upon the formula expressed above and taking into account the relative percentages of the Premises located within each area.
- (d) Additionally, any portion of the Premises for which Tenant is exercising its Option to Purchase used or to be used for public purposes including but not limited to land for police, fire, parks, recreation, parking, roads, sidewalks,

administration, and/or other public purposes (all as based upon survey(s) mutually agreed to by Landlord and Tenant) (the "Public Uses of the Premises") shall also not be included in calculating the acreage of the Premises for determining the purchase price to be paid by Tenant for the Premises or any portion thereof.

- (e) In no event shall Tenant be required to pay the Option Price to Landlord more that once for any particular portion of the Premises.

Paragraph 2; Disbursement of Surplus Sale Proceeds. In addition to the foregoing, in the event that, following Tenant's sale of any portion of the Premises to a Buyer and payment of the Option Price and closing costs of the sale transaction, additional sale proceeds from the sale by Tenant remain, such sale proceeds shall be disbursed in the following order:

- (1) Tenant shall receive an amount equal to ten percent (10%) of the gross purchase price set forth in Tenant's contract with the Buyer as Tenant's development fee (the "Development Fee").

- (2) All remaining sale proceeds not disbursed as either the Option Price, closing costs of the sale transaction, or the Development Fee (such remaining proceeds the "Escrow Funds") shall be disbursed to Landlord to be held in an interest bearing account (the "Escrow Account") which Escrow Funds may be used by Landlord solely for the construction of public infrastructure serving the Premises. Tenant shall have the right to request the expenditure of the Escrow Funds for particular public improvements serving the Premises by sending written notice to Landlord of such request.

Paragraph 3; Surplus Sale Proceeds at the Completion of the Development. Upon completion of the development of the Premises, any and all Escrow Funds held in the Escrow Account (the "Residual Escrow Funds"), after payment to Landlord for funds advanced for public infrastructure improvements not otherwise reimbursed out of TIF revenues, shall be divided and disbursed equally between Landlord and Tenant. For purposes of this Paragraph 3, "completion of the development of the Premises" shall be deemed to have occurred when all commercially marketable parcels contained within the Premises are released from this Lease, purchased from Landlord by Tenant, or purchased from Landlord by a third party or parties.

Paragraph 4. Obligations of Landlord on Use of Funds. The obligations of Landlord to place the Escrow Funds in the Escrow Account and the sharing of the Residual Escrow Funds under Paragraph 3 are contingent on the passage of future ordinances of Landlord's Council authorizing the deposit of Escrow Funds into the Escrow Account, appropriation and authorization of expenditures out of the Residual Escrow Funds and the certificate of the City Auditor pursuant to Section 159 of Landlord's Charter.

Landlord Initials _____
Date _____

Tenant Initials _____
Date _____

Appendix 1

EXHIBIT E

Landlord's Policy or Policies of Title Insurance

1. None

EXHIBIT F

Existing Subleases

1. Lease by and between Tenant and EFA Company, LLC (d/b/a Mosaica) (term is July 1, 2004 to July 31, 2007)