

**COMMERCIAL LEASE AGREEMENT
BETWEEN THE CITY OF ANN ARBOR AND
THE REGENTS OF THE UNIVERSITY OF MICHIGAN
FOR LEASE OF
406 N. ASHLEY STREET – THE COMMUNITY DENTAL CENTER**

THIS LEASE between the CITY OF ANN ARBOR, a Michigan Municipal Corporation, 301 E. Huron St., P.O. Box 8647, Ann Arbor, MI 48107-8647 (“Lessor”) and THE REGENTS OF THE UNIVERSITY OF MICHIGAN, a Michigan Constitutional Corporation, whose address is AEC—Real Estate Office, 326 E. Hoover Street, Ann Arbor, MI 48109-1002 (“Lessee”)

Recitals:

Whereas, the Regents of the University of Michigan have leased a portion of the property at 406 N. Ashley, for the operation of its Community Dental Center pursuant to the Commercial Lease Agreement between Lessor and Lessee since July 1, 2004 ;

Whereas, the current lease term for the property terminates on June 30, 2018; Whereas, the Lessee’s plans to expand the services offered by its Community Dental Center to the community in the immediate future wants to occupy the remaining portion of the building (the “Expansion Space”) and thus lease the entire building at 406 N. Ashley;

Whereas, the Ann Arbor Housing Commission currently occupies the Expansion Space; and

Whereas, the parties have agreed that to alter the responsibilities of Lessee and Lessor in acknowledgement of full occupancy of the building by the Community Dental Center and have negotiated and executed this lease, which supersedes and replaces all prior lease agreements between the parties for the Premises

Terms:

Lessor and Lease agree as follows:

1. DESCRIPTION OF PREMISES AND TERM:

(a) The property located at 406 North Ashley Street, Ann Arbor, Michigan, including any improvements located at such property,(the “Premises”) for its operation as a Community Dental Center and the other uses described in Paragraph 4 below, for a term ending June 30, 2021 unless terminated sooner in accordance with the terms of this Lease.

(b) Lessor will deliver the Expansion Space to Lessee by October 1, 2016 in a broom-clean condition and free of all of Lessor’s personal property. Prior to that delivery date, Lessee may access the Expansion Space with its architects and contractors to take measurements and other preparations for the improvements described in Paragraph 4, below.

Lessee shall have the option to renew this Lease for the use specified in Paragraph 4 for one additional three-year period ending June 30, 2024 on the same terms and conditions as the this Lease. Lessee can exercise its renewal option by sending written notice of its exercise of its renewal option at least sixty (60) days prior to the expiration of the Lease term.

2. PARKING LOT: The parking lot is for sole use by Lessee for its Community Dental Center staff and customers.

3. RENTAL RATE: In lieu of rent during the term of this Lease or any renewal term Lessee agrees to accept financial responsibility for and pay the costs, expenses and fees for capital replacement, repairs and maintenance costs for the Premises as set forth in Paragraphs 5(a) and 5(b) below. No security deposit shall be required under the terms of the Lease.

4. USE AND OCCUPANCY:

(a) Lessee agrees that a portion of the premises shall be used and operated as its Community Dental Center to provide dental care services to lower income residents in the City of Ann Arbor and Washtenaw County with priority to the very low income City and County residents as determined by criteria established by the Department of Housing and Urban Development (HUD) with the use of the remainder of the Premises to be under the management of the University of Michigan School of Dentistry; all in accordance with all applicable regulations imposed by any governmental authority and in observance of all reasonable regulations and requirements of any insurance company concerning the use and condition of the Premises.

(b) Lessee agrees to post and maintain regular office hours at the Premises as evidence of its operation in the Premises of its Community Dental Center.

(c) Lessee anticipates expansion of its Community Dental Center to include a Special Needs and Interprofessional Education Clinic. Lessor and Lessee acknowledge that inclusion of the Clinic may require the construction of new or expanded clinic space within the Premises. Lessee shall be responsible for design/construction plan preparation and detailed specifications. All on-site construction or system work, interior or exterior, necessary to the operation of the Clinic must be pre-approved by Lessor. On receipt of the necessary design/construction documentation, Lessor and Lessee agree to amend this Lease, as necessary, to include their respective responsibilities for the work to be performed by or under the direction of Lessor at Lessee's expense.

(d) Lessee shall be responsible for janitorial services and all routine maintenance of the Premises.

(e) Lessee acknowledges that it had the opportunity to make an independent assessment of the condition of the Premises and accepts the Premises in its present condition as of the date of the execution of this Lease. Lessee agrees to return the Premises to Lessor at the expiration of this Lease in the same condition

as when taken, reasonable wear and tear, and improvements excepted.

5. CAPITAL IMPROVEMENTS/REPAIRS/MAINTENANCE:

(a) Lessee shall be financially responsible for and shall pay any and all costs, expenses and fees for necessary repairs to the interior of the Premises, including but not limited to, window maintenance, painting, electrical and plumbing work and anticipated capital repair/replacement during the term of the H.V.A.C. system and elevator repairs and preventive maintenance. In addition, Lessee agrees to be responsible for all costs associated with upgrade of the building electrical service, if required, to support a new or expanded dental clinic within the building. Lessee shall be responsible for performing or contracting for the performance of all such work described in this Paragraph 5(a). Lessee shall be required to obtain permits for and comply with all applicable laws, codes and regulations related to the work to be performed. Lessor has the right to request copies of all back-up documentation for such work, including copies of all required permits and inspection reports.

(b) Lessee shall be responsible for the cost of snow removal/ice control (de-icing of all sidewalks and entrance way leading into the building located on the Premises) and lawn care services contracted for by Lessor. Lessee shall reimburse Lessor for the costs of such work within thirty (30) days of a receipt of an invoice for such work. Lessee has the right to request copies of all back-up documentation for such work.

(c) Lessee shall be responsible for reporting any building maintenance problems or unsafe conditions to the Public Services Area Administrator or authorized representative for disposition.

(d) Lessee is not responsible for the maintenance and repair of improvements or replacements of a capital nature of the parking lot, roof or exterior walls (i.e. building shell) except to the extent that repair of such items is necessitated by Lessee or Lessee's employees or business invitees. Any repair by Lessee which would result in an alteration or modification of the building shell of the Premises must be pre-approved by Lessor; which request for approval must include drawing or plans for the alteration, Lessee shall be required to obtain permits for and comply with all applicable laws, codes and regulations related to the work to be performed.

6. UTILITIES: Lessee's shall be responsible for all utilities servicing the Premises.

7. DAMAGE TO LESSEE'S PROPERTY: Lessor shall not be responsible for any damage to or theft, loss or destruction of Lessee's property, unless the damage is caused by Lessor's negligence or failure to maintain the Premises as required by this Lease. Lessor is not responsible for insuring personal property and Lessee is encouraged to insure personal property.

8. DAMAGE TO LESSOR'S PROPERTY AND HOLD HARMLESS:

(a) Lessee assumes full responsibility for the conduct of persons using the Community Dental Center during the term of this Lease. Lessee agrees to make full restitution to the Lessor for damages to property caused by Lessee or by its business invitees during the term of this Lease.

(b) To the extent permitted by law, Lessee agrees to hold harmless the City of Ann Arbor, its officers and employees, from all liability, penalties, damages, expenses and judgements to the extent caused by any act or omission by Lessee, its officers, employees, students, volunteers or invitees that causes injury or loss to persons or property. To the extent permitted by law, Lessor agrees hold harmless Lessee, its officers and employees, from any liability, penalties, damages, expenses and judgements finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement. This provision is not intended, and shall not be construed, to waive or limit any immunity defense which Lessor or Lessee may have including but not limited to governmental immunity

9. ENTRY:

(a) Lessor shall have the right to enter the Premises after reasonable notice to Lessee to make any repairs, modifications or maintenance identified in this Lease. Lessor shall have the right to make emergency repairs without advance notice to the Lessee, but Lessor shall notify Lessee of its entry into the Premises for such emergency repairs as soon as reasonably possible.

(b) On termination of this Lease, Lessee shall return all keys to the Premises to Lessor. Lessee shall not alter or install a new lock on any door to the Premises without Lessor's written consent.

10. HOLDOVER: Lessee shall vacate the Premises promptly at the expiration of this Lease. No holdover tenancy whatsoever shall be created and if Lessee fails to vacate the Premises when this Lease expires, Lessee shall pay Lessor the actual damages incurred by the Lessor due to Lessee's failure to vacate.

11. DEFAULT: If Lessee fails to abide by any of the above conditions, the Lessor may terminate this Lease by giving written notice of lease violations at least forty five (45) days prior to the desired termination date. If the lease violations are corrected within the forty five (45) day time limit, the Lease shall continue.

12. TERMINATION: This lease is subject to immediate termination by the Lessor if Lessee ceases the operation of a Community Dental Center at the Premises.

13. SUBLETTING AND ASSIGNMENT: Lessee shall not sublet or assign the Premises, including any portion of or space in the parking lot, without the prior written consent of the Lessor's Public Services Area Administrator. Lessee shall give Lessor written notice of its intention to sublet the Premises, which notice must

specify the intended sublessee, the purpose and intended term of the sublease. Any sublease of the premises shall be on the same use and occupancy conditions as the underlying lease. Consent shall not be unreasonably withheld. A sublet or assignment agreement approved by Lessor does not terminate Lessee's responsibility under this Lease.

14. **DAMAGE TO PREMISES AND UNTENANTABILITY:** If the Premises are injured or destroyed in whole or in part by fire or other casualty during the term of this Lease, Lessor shall immediately repair the premises so that they are substantially the same as they were before the casualty, unless the Premises are untenable and the Lessor reasonably determines it not advisable to repair the Premises. If the premises are untenable and the Lessor is unable to repair the Premises to a tenantable condition within thirty (30) days, Lessor or Lessee may terminate this lease by giving written notice to respective party within ten (10) days of the date of damage to the Premises. If the Premises are rendered untenable or if the Premises cannot be promptly restored to a tenantable condition and if the injury or casualty was not caused by the willful act or negligence of the Lessee, Lessor may, within ten (10) days of the damage to the premises, offer a comparable unit to the Lessee for the duration of the lease if such a unit is available.

15. **WAIVER OF SUBROGATION:** Each party releases the other party from any liability for loss, damage, or injury caused by fire or other casualty for which insurance is carried by the insured party to the extent of any recovery by the insured party under such insurance policy.

16. **GOVERNING LAW AND SEVERABILITY:** This Lease shall be governed by the laws of Michigan. The numbering and headings are not part of this Lease and are intended only to assist in locating the relevant lease terms. If a term or clause of this Lease is found by a court to be invalid, that finding shall not invalidate any other clause or term of this lease.

17. **HIPAA:** Both parties believe that the Lessor's authorized activities under the Lease do not subject it to the Federal privacy requirements under the Health Insurance Portability and Accountability Act (HIPAA). Lessor will take reasonable steps to inform and warn its agents and employees to not seek or obtain access to private patient information. Lessor will take appropriate action if Lessee notifies Lessor that Lessor's agents or employees have sought or obtained access to private patient information.

18. **NOTICE:** Whenever under this Lease a provision is made for notice of any kind it is sufficient notice and service if the notice to Lessee or Lessor is in writing addressed to their addresses, and if indicated individuals, stated in this Lease or such other address as either party may designate by prior written notice to the other.

19. **AMENDMENTS:** This is the full and complete understanding of the Lease, all prior verbal or written leases or agreements are null and void. This

Lease may only be amended in writing after approval by the authorized persons of the respective governing bodies of Lessor and Lessee. The promises, conditions and agreements herein made by the parties are declared binding on their respective heirs, successors, representatives, assigns, or sub-lessees.

20. AUTHORIZATION TO EXECUTE: By executing this Lease the parties acknowledge that their respective governing bodies have adopted the necessary authorization for execution of this Lease or the person executing this Lease has the appropriate authorization from that respective governing body.

THE REGENTS OF
THE UNIVERSITY OF MICHIGAN,
a Michigan Constitutional Corporation

By: _____

Its: _____

THE CITY OF ANN ARBOR, a Michigan
Municipal Corporation

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to Substance

Howard S. Lazarus, City Administrator

Approved as to Form

Stephen K. Postema, City Attorney