



**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**



**BROWNFIELD CLEANUP PROGRAM (BCP)
AMENDMENT APPLICATION FOR CHANGE IN PARTY**

07/2010

Section I. Existing Application Information		
BCP SITE NAME: Former Mobil Service Station 99-MST		BCP SITE NUMBER: C915260
NAME OF CURRENT APPLICANT(S): Kaleida Properties, Inc., Kaleida Health, and F.L.C. 50 High Street Corporation		
INDEX NUMBER OF EXISTING AGREEMENT (if applicable): C915260-03-12		
Section II. Requestor Information		
NAME Conventus Partners, LLC		
ADDRESS 350 Essjay Road, Suite 100		
CITY/TOWN Williamsville		ZIP CODE 14221
PHONE (716) 855-1200	FAX	E-MAIL FCiminelli@ciminelli.com
Is the requestor authorized to conduct business in New York State (NYS)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
-If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's Corporation & Business Entity Database . A print-out of entity information from the database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.		
NAME OF REQUESTOR'S REPRESENTATIVE Frank Ciminelli		
ADDRESS 350 Essjay Road, Suite 100		
CITY/TOWN Williamsville		ZIP CODE 14221
PHONE (716) 855-1200	FAX	E-MAIL FCiminelli@ciminelli.com
NAME OF REQUESTOR'S CONSULTANT Mark Colmerauer		
ADDRESS C&S Companies, 90 Broadway		
CITY/TOWN Buffalo		ZIP CODE 14203
PHONE 716-847-1631	FAX 716-847-1454	E-MAIL mcolmerauer@cscos.com
NAME OF REQUESTOR'S ATTORNEY Marc A. Romanowski		
ADDRESS 12 Fountain Plaza, Suite 400		
CITY/TOWN Buffalo		ZIP CODE 14202-2293
PHONE 716-844-3709	FAX 716-853-1617	E-MAIL mromanowski@hselaw.com
THE REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:		
<input type="checkbox"/> PARTICIPANT	<input checked="" type="checkbox"/> VOLUNTEER	
A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.	
	NOTE: By checking this box, the requestor certifies that he/she has exercised appropriate care with respect to the contamination found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; and iii) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.	

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Section II. Requestor Information (Continued)

Requestor's Relationship to Property (check one):

 Prior Owner
 Current Owner
 Potential /Future Purchaser
 Other entity created by one of the current applicants

 If requestor is not the site owner, requestor will have access to the property throughout the BCP project.
 Yes
 No

(Note: proof of site access must be submitted for non-owners)

Describe Requestor's Relationship to Existing Applicant:

F.L.C. 50 High Street Corporation is a member in Conventus Partners, LLC.

Briefly Describe Basis for Submitting this Amendment Application:

We are submitting this application to add another related entity to the development project. Conventus Partners, LLC is a special purpose entity created by F.L.C. 50 High Street Corporation to facilitate investment, financing and ultimately construction of the Medical Office Building Project being constructed at the BCP Site.

Section III. Current Site Owner/Operator Information (only include new information)

OWNER'S NAME (if different from requestor) Kaleida Properties, Inc.

ADDRESS 726 Exchange Street, Suite 200

CITY/TOWN Buffalo

ZIP CODE 14210

PHONE (716) 859-8836

FAX

E-MAIL jkessler@kaleidahealth.org

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for Requestor (Please refer to ECL 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor subject to an existing order relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
4. Has the requestor been determined to have violated any provision of ECL Article 27? Yes No
5. Has the requestor previously been denied entry to the BCP? Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving contaminants? Yes No
7. Has the requestor been convicted of a criminal offense that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration? Yes No
8. Has the requestor knowingly falsified or concealed material facts or knowingly submitted or made use of a false statement in a matter before the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.8(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No

Statement of Certification and Signatures: Requestor

(Individual)

I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Manager (title) of Conventus Partners, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 10/25/2013 Signature: [Signature] Print Name: Frank L. Ciminelli

Statement of Certification and Signatures: Existing Applicant

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, I will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Chief Executive Officer (title) of Kaleida Properties, Inc. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, J. Joseph M. Kessler will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: 10/22/2013 Signature: [Signature] Print Name: Joseph M. Kessler

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- Two (2) copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- One (1) paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check DEC's website for the address of our regional offices:
<http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

PROJECT MANAGER: _____

Statement of Certification and Signatures: Requestor


(Individual)

I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Manager (title) of Conventus Partners, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 10/25/2013 Signature:  Print Name: Frank L. Ciminelli

Statement of Certification and Signatures: Existing Applicant

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, I will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Chief Financial Officer (title) of Kaleida Health (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, J. Joseph M. Kessler will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: 10/22/2013 Signature:  Print Name: Joseph M. Kessler

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- **One (1)** paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check DEC's website for the address of our regional offices:
<http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

PROJECT MANAGER: _____

Statement of Certification and Signatures: Requestor

(Individual)

I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am Manager (title) of Conventus Partners, LLC (entity); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I acknowledge and agree to the general terms and conditions set forth in DER-32 *Brownfield Cleanup Program Applications and Agreements*. I also agree that in the event of a conflict between the general terms and conditions of participation set forth in DER-32 and the terms contained in a site-specific BCA, the terms in the BCA shall control. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 10/25/2013 Signature: Frank L. Ciminelli Print Name: Frank L. Ciminelli

Statement of Certification and Signatures: Existing Applicant

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, I will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: _____ Signature: _____ Print Name: _____

(Entity)

I hereby affirm that I am President (title) of F.L.C. 50 High Street Corp. (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. If an Agreement exists, I, Frank L. Ciminelli will execute an Amendment to that Agreement if this Application for an Amendment is approved.

Date: 10/25/2013 Signature: Frank L. Ciminelli Print Name: Frank L. Ciminelli

SUBMITTAL INFORMATION:

Three (3) complete copies are required.

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) on a CD, must be sent to:
 Chief, Site Control Section
 New York State Department of Environmental Conservation
 Division of Environmental Remediation
 625 Broadway
 Albany, NY 12233-7020
- **One (1)** paper copy must be sent to the DEC regional contact in the regional office covering the county in which the site is located. Please check DEC's website for the address of our regional offices:
<http://www.dec.state.ny.us/website/der/index.html>

FOR DEPARTMENT USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

PROJECT MANAGER: _____

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through October 16, 2013.

Selected Entity Name: CONVENTUS PARTNERS, LLC

Selected Entity Status Information

Current Entity Name: CONVENTUS PARTNERS, LLC

DOS ID #: 4414171

Initial DOS Filing Date: JUNE 06, 2013

County: ERIE

Jurisdiction: DELAWARE

Entity Type: FOREIGN LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

LIPPES MATHIAS WEXLER FRIEDMAN LLP

ATTENTION:PAUL A MITCHELL ESQ.

665 MAIN STREET, SUITE 300

BUFFALO, NEW YORK, 14203

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members, however this information is not recorded and only available by [viewing the certificate.](#)

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
-------------	---------------	--------------------

No Information Available

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
JUN 06, 2013	Actual	CONVENTUS PARTNERS, LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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GROUND LEASE

This Ground Lease (this "Lease") is made and entered into as of the 2 day of December, 2011 (the "Effective Date") by and between KALEIDA PROPERTIES INC., with offices at 726 Exchange Street, Suite 200, Buffalo, New York 14210, hereinafter called "Landlord" and F.L.C. 50 HIGH STREET CORPORATION, a New York corporation with offices at 350 Essjay Road, Williamsville, New York 14221, hereinafter called "Tenant".

RECITALS:

1. Landlord is the owner of approximately 61,226 square feet of land situated in Erie County, New York, more particularly described on Exhibit A, attached hereto and as shown on Exhibit B (the "Land"), which is located with a medical campus (the "Medical Campus") also shown on Exhibit B attached hereto;
2. Landlord is willing to grant to Tenant a ground leasehold estate in the Land.

AGREEMENT

NOW THEREFORE, Landlord, in consideration of the rentals herein agreed to be paid by Tenant and the other covenants and agreements to be performed by Tenant, hereby lets and leases unto Tenant, and Tenant hereby takes and accepts the Land together with (a) all appurtenances, estate and rights of Landlord in and to the Land, and (b) all easements and rights created or reserved for the benefit of the owner of the Land. However, notwithstanding anything else contained herein, this Lease is subject to all easements, agreements and restrictions of record that are acceptable to Tenant (collectively, the "Permitted Exceptions").

This Lease is made for the Term (as hereinafter defined) and upon the conditions and agreements herein expressed and Landlord and Tenant, each for itself, its successors and assigns, do hereby agree to perform each and all of the covenants, conditions and agreements herein provided to be kept and performed by Landlord and Tenant, respectively.

ARTICLE I DEFINITIONS

The terms defined below shall have the meanings specified, unless the context clearly indicates otherwise:

- 1.01 "Assignment" shall mean an assignment to a third party by Tenant of all of its rights and obligations under this Lease.
- 1.02 "Commencement of Work" shall mean the date on which the excavation work in connection with the construction of the Tenant's Improvements (not including any excavation activities performed in connection with environmental remediation activities) has begun. To "Commence Work" shall have the correlative meaning.
- 1.03 "Lease Commencement Date" shall mean the date hereof.
- 1.04 "Completion Date" shall mean (1) the date upon which the Tenant's Improvements have been substantially completed in accordance with generally accepted construction practices and a certificate of occupancy (either temporary or permanent) has been issued therefor (except for tenant

improvement work), and (2) with respect to the change, alteration or new construction of the Tenant's Improvements, or any Restoration (as hereinafter defined) of the Tenant's Improvements, that point in time when the Tenant's Improvements have been substantially completed in accordance with generally accepted construction practices and a certificate of occupancy (either temporary or permanent) has been issued for the completed work.

1.05 "Construction Period" shall mean the period commencing with the Commencement of Work for the Tenant's Improvements, or Restoration, as the case may be, and ending with the Completion Date of the Tenant's Improvements or Restoration, as the case may be.

1.06 "Development Costs" shall mean the costs of developing and constructing the Tenant's Improvements.

1.07 "Governmental Authorities" means all federal, state and municipal governments, courts, departments, commissions, boards, and officers having jurisdiction over the Premises, the Tenant's Improvements or the construction thereof, or over, Landlord, Tenant or any Subtenant.

1.08 "Governmental Requirement(s)" means all present and future laws, ordinances, orders, rules, regulations and requirements of any Governmental Authority having jurisdiction over the Tenant's Improvements or the Premises or the use of either of them or this Lease and all building permits and other licenses and approvals required by the appropriate Governmental Authorities in connection with the Tenant's Improvements or this Lease.

1.09 "Impositions" shall mean all taxes, all assessments, water, sewer and charges, excises, levies, fees (including, without limitation, licenses, permits, inspections, authorizations and similar fees), and all other governmental charges, whether general or special, ordinary or extraordinary, foreseen or unforeseen, which relate to the ownership of the Land and the Tenant's Improvements or the use or occupancy of the Land and the Tenant's Improvements.

1.10 "Land" shall mean that certain parcel of real property described in Exhibit "A" attached hereto.

1.11 "Landlord's Parcel" shall mean that certain parcel of real property owned by the Landlord which is contiguous to the Land.

1.12 "Lease Year" shall mean the 12 month period beginning on the first day of the month following the Rent Commencement Date and ending on the last day of the twelfth (12th) month thereafter of each year of the Term of this Lease.

1.13 "Leasehold Estate" shall mean the leasehold estate created by this Lease.

1.14 "Leasehold Mortgage" shall mean any mortgage or other real property security instrument by which Tenant may encumber, hypothecate or mortgage all or any part of the Leasehold Estate pursuant to the terms of this Lease.

1.15 "Leasehold Mortgagee" shall mean the holder of any Leasehold Mortgage.

1.16 "Net Rentable Area" shall mean the total floor area contained in all of the floors of a building computed pursuant to the standards and methods of measurement set forth by the Building Owners and Managers Association International (BOMA) Office Buildings: Standard Methods of Measurement and Calculating Rentable Area (2010) ("BOMA 2010")

1.17 "Plans and Specifications" shall mean the base building and structural construction plans together with mechanical and elevation drawings and related drawings for the Tenant's Improvements which are in sufficient detail to obtain a building permit from the City of Buffalo.

1.18 "Premises" shall mean the Land and any buildings or other improvements existing on the Land from time to time.

1.19 "Project" shall mean the construction and operation of the Tenant's Improvements.

1.20 "Rent" shall mean all amounts payable by Tenant to Landlord pursuant to this Lease.

1.21 "Site Plan" shall mean the site plan for the construction of the Tenant's Improvements prepared by Architectural Resources, dated August 25, 2011, inclusive of the elevation drawing, reduced photocopies of which are attached hereto as Exhibit "C".

1.22 "Sublease" shall mean a sublease of space in the Tenant's Improvements between a Subtenant and Tenant.

1.23 "Subtenant" shall mean the subtenant under a Sublease for space in the Tenant's Improvements.

1.24 "Tenant" shall mean the Tenant herein named or any assignee or other successor in interest of the Tenant, which at the time in question is the owner of the Leasehold Estate; but the foregoing provisions of this subsection shall not be construed to relieve the Tenant or any assignee or other successor in interest of the Tenant from the full and prompt payment, performance and observance of the covenants, obligations, conditions to be paid, performed and observed by the Tenant under this Lease.

1.25 "Tenant's Improvements" shall mean all buildings, landscaping, sidewalks, driveways, parking areas and other improvements which are placed, constructed or located on, over and under the Premises during the term of this Lease. Landlord acknowledges that this is a lease of ground, with Tenant retaining fee title and ownership to all of the Tenant's Improvements during the Term of this Lease.

1.26 "Unavoidable Delay" shall mean delays due to strikes, act of God, inability to obtain labor or materials, actions of Landlord, Governmental Requirements, removal of Hazardous Materials (defined hereinafter), enemy action, civil commotion, fire, inclement weather, unavoidable casualty or similar causes beyond the reasonable control of Tenant.

ARTICLE II

TERM

2.01

(a) TO HAVE AND TO HOLD for an initial term (the "Term") commencing on the date this Lease is fully executed and continuing until 11:59 P. M. on the last day of the forty ninth (49th) Lease Year after the Rent Commencement Date unless sooner terminated as hereinafter provided. The date upon which the last of the following occurs (i) [REDACTED]

(b) Landlord will have the right, upon notice to Tenant, such notice to be provided no later than thirty (30) months prior to the end of the Term, time being of the essence, to elect to purchase the Tenant's Improvements as of the end of the Term, upon payment to Tenant of a price equal to the then "Fair Market Value" (as defined below) of the Tenant's Improvements. "Fair Market Value" shall mean the price which an unrelated buyer and seller under no compulsion would buy or sell, respectively, would agree upon for the Tenant's Improvements, taking into consideration the quality, age, size, and design of the Tenant's Improvements in Buffalo, New York. In the event Landlord fails to notify Tenant of its desire to purchase the Tenant's Improvements, Tenant shall have the right, but not the obligation, to demolish the Tenant's Improvements prior to the expiration of the Term provided it delivers notice of such intent to demolish the Tenant's Improvements to Landlord ~~no later than eighteen (18) months prior to the expiration of the Term~~. If the Tenant fails to so notify the Landlord of its intention to demolish the Tenant's Improvements, Tenant will be deemed to have waived such right and all of the Tenant Improvements will be relinquished to the Landlord in their then as-is condition, at the end of the Term.

(c) If the parties cannot agree on a purchase price for the Tenant's Improvements, within thirty days of Landlord's notice to Tenant that it intends to purchase the Tenant's Improvements, Landlord and Tenant will each hire and appoint an MAI certified appraiser with at least five (5) years' experience appraising commercial buildings in the State of New York to appraise the Fair Market Value of the Tenant's Improvements. If either Landlord or Tenant does not appoint an MAI appraiser within ten (10) days after the other has given written notice of the name of its MAI Appraiser, the single MAI Appraiser appointed will be the sole appraiser and will set the Fair Market Value of the Tenant's Improvements. If two appraisers are appointed pursuant to this Section, they will meet promptly in an attempt to set the Fair Market Value of the Tenant's Improvements. If they are unable to agree within ninety (90) days after the second MAI appraiser has been appointed, they will elect a third MAI appraiser meeting the qualifications stated in this Section within ten (10) days after the last day the two appraisers are given to set the Fair Market Value of the Tenant's Improvements. The third appraiser must be a person who has not previously acted in any capacity for either Landlord or Tenant, or their affiliates. ~~Landlord and Tenant will each bear one-half (1/2) of the cost of appointing the third appraiser and of paying the third appraiser's fee.~~ Within ninety (90) days after the selection of third appraiser, the third appraiser shall complete an appraisal of the Tenant's Improvements, which appraisal will establish the Fair Market Value of the Tenant's Improvements. The Fair Market Value set forth in the third appraisal shall be binding upon the Landlord and the Tenant.

ARTICLE III RENT

3.01 Ground Rent: ~~From and after the Rent Commencement Date~~ Tenant will pay ground rent to Landlord, in advance, at the address of Landlord set forth in Section 27.01, or such other place as Landlord may by notice to Tenant from time to time direct, at the following rates and times:

(a)  X

(b)  X

(redacted)

will set establish the Adjusted Ground Rent. The Adjusted Ground Rent set forth in the third appraisal shall be binding upon the Landlord and the Tenant and shall establish the amount of Ground Rent to be paid as set forth in this paragraph.

3.02 Additional Rent. Excluding the Ground Rent, all other amounts which Tenant is required to pay pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for nonpayment or late payment of the same, shall constitute additional rent ("Additional Rent").

(redacted)

3.05 Net Lease. This is an absolutely net lease and the Ground Rent shall be paid by Tenant without notice, demand, set-off, counterclaim, reduction, abatement, deduction suspension, deferment or defense. Except as expressly provided herein, this Lease shall not terminate under any circumstances and Tenant shall not have any right to cancel this Lease or be entitled to any abatement or reduction of

Ground Rent. The obligations of Tenant hereunder shall be separate and independent covenants and agreements and shall in all circumstances continue unaffected. Each payment made by Tenant to Landlord pursuant to this Lease shall be final, and Tenant shall not seek to recover all or any part of such payment from Landlord for any reason whatsoever.

3.06 Place of Payment. All payments of Rent shall be mailed or otherwise delivered by Tenant to Landlord at the address(es) specified in Section 27.07 below.

**ARTICLE IV
USE/ PROHIBITED USE/ PROHIBITED SALE**

4.01 Tenant may use the Premises for medical office, related services and other ancillary uses, subject to the terms set forth below. Ancillary uses shall include general office use, retail shops, parking facilities, hotel, residential, recreational, child care and restaurants servicing patients, tenants, guests, invitees and the general public. Except as otherwise restricted herein, Tenant shall have the right to sublease all or any portion of the Tenant's Improvements to Subtenants under Subleases without Landlord's consent.

[REDACTED]

X

4.02 Tenant shall at all times during the Term, at Tenant's own cost and expense, perform and comply with all laws, rules, orders, ordinances, regulations, and requirements now or hereafter enacted or promulgated, of every Governmental Authority, and of any agency thereof, relating to the Premises, or the facilities or equipment therein, or the streets, sidewalks, vaults, vault spaces, curbs and gutters adjoining the Premises, or the appurtenances to the Premises, or the franchises and privileges connected therewith, whether or not such laws, rules, orders, ordinances, regulations, or requirements so involved shall necessitate structural changes, improvements, interference with use and enjoyment of the Premises, replacements, or repairs, extraordinary as well as ordinary, and Tenant shall so perform and comply, whether or not such laws, rules, orders, ordinances, regulations or requirements shall now exist or shall hereafter be enacted or promulgated, and whether or not such laws, rules, orders, ordinances, regulations or requirements can be said to be within the present contemplation of the parties hereto.

[REDACTED]

X

(next pg. redacted)

(redacted)

✓
X
X
X

ARTICLE V
DEVELOPMENT OF THE LAND

5.01 Tenant's Obligation to Develop Land.

(a) Scope of Development. Tenant will improve the Land by constructing thereon the Tenant's Improvements.

(b) Schedule of Performance. Upon Landlord's approval of the Construction Drawings referenced in subsection (c) below, the Land shall be developed by Tenant in accordance with the time schedule submitted to Landlord by Tenant (the "Schedule of Performance"), subject to Unavoidable Delays.

(c) Approvals. ~~Tenant shall prepare and submit the Site Plan to Landlord for written approval, such approval to not be unreasonably withheld or conditioned. Landlord shall either approve or disapprove in writing the Site Plan within ten (10) days of Landlord's receipt thereof. Any disapproval shall be accompanied by a written explanation setting forth in detail the reasons for disapproval. Failure by Landlord to express disapproval of the Site Plan within such ten (10) day period shall constitute Landlord's approval of such item. The criteria used by Landlord in approving or disapproving any the Site Plan shall be (1) quality of general design, and (2) relationship of Tenant's Improvements to the Landlord's Parcel relating to the construction of a connector between the Tenant's Improvements and a building or buildings to be constructed on the Landlord's Parcel (it being intended by Landlord and Tenant that the Project will connect by interior or climate controlled walkway to a building to be constructed by Landlord or an affiliate of Landlord contiguous to the Project). In the event Landlord disapproves of any such item, Tenant shall cause such item to be appropriately revised as soon as possible after receipt of a notice of disapproval and resubmit the same to Landlord for approval pursuant to this Section 5.01. Landlord and Tenant agree to cooperate reasonably each with the other in resolving any objections of the other to such item and/or requested modifications by the other. The provisions of this Section 5.01 with respect to notice, time for and method of approval shall apply to any such revised item resubmitted to Landlord for approval within the exception that Landlord shall approve, reject or comment~~

on a resubmitted item within fifteen (15) days from receipt after such resubmission. Failure by Landlord to express disapproval of any such resubmitted item within such 15 day period shall constitute Landlord's approval of such item. Upon approval of any such item, whether directly or through Landlord's failure to disapprove the item within the time set forth in this Section 5.01, upon Tenant's request Landlord shall execute and return a copy of such item to Tenant marked approved by Landlord with the date of such approval.

(d) Changes to Site Plan. Tenant may make changes and modifications which are not material to the Site Plan or other items required to be approved by Landlord without obtaining Landlord's prior approval. Landlord's approval shall not be required for change orders that materially modify the size, scope, design or positioning of the Tenant's Improvements shown on the Site Plan previously approved by Landlord.

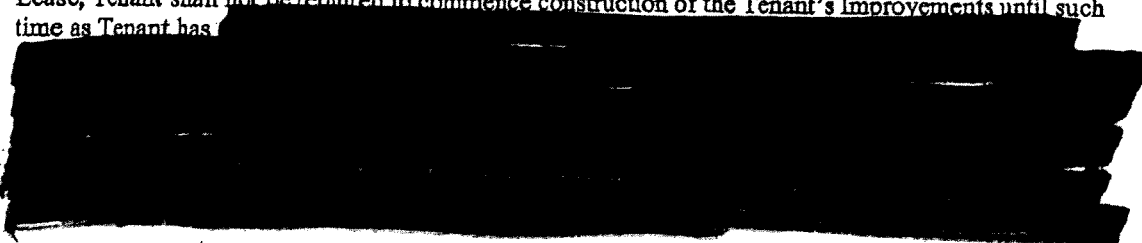
(e) Communication and Consultation. Landlord and Tenant agree to communicate and consult informally as frequently as is reasonably necessary to insure that the formal submittal of any item pursuant to this Section 5.01 can receive prompt and speedy consideration. In addition, during the period that Tenant is preparing the Site Plan and obtaining governmental approvals, Landlord agrees, upon request of Tenant, to schedule and hold regular progress meetings with Landlord.

(f) Reports and Information. At all reasonable times requested by Landlord, but not to exceed one time per month, Tenant shall meet with Landlord at the offices of Landlord and/or at the Premises to provide a progress report on the satisfaction of the items in the Schedule of Performance.

Copies of all soils reports, surveys, hazardous wastes or toxic reports, feasibility studies and other similar written materials prepared for Tenant with respect to the Land shall be delivered to Landlord within ten (10) days after receipt by Tenant.

(g) Obligation to Develop Land. Subject to Unavoidable Delays, Tenant agrees to: (1) Commence Work on the Tenant's Improvements on a date to be submitted to Landlord by Tenant. Notwithstanding the foregoing, ~~Tenant shall be under no obligation to commence construction until after the completion of the Remediation Activities (as defined in Article XXX below) at the Land such that a no further action letter has been issued by the New York State Department of Environmental Conservation.~~ Following the Commencement of Work, Tenant shall complete the Tenant's Improvements in accordance with the timetable set forth in the Schedule of Performance in compliance with all Governmental Requirements, and (2) to diligently proceed to substantially complete the Tenant's Improvements without mechanic's liens, in a good and workmanlike manner and substantially in compliance with the Plans and Specifications and other drawings approved by Landlord pursuant to the Schedule of Performance ~~on or before the last day of the twenty-fourth (24th) full calendar month following Tenant's receipt of a building permit from the City of Buffalo~~ to construct the Tenant's Improvements pursuant to the Site Plan.

(h) Efforts to Sublease. Tenant shall at all times use diligent and commercially reasonable efforts to enter into Subleases with Subtenants. Notwithstanding anything set forth in this Lease, Tenant shall not be required to commence construction of the Tenant's Improvements until such time as Tenant has

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[REDACTED]

(i) Use of Plans. The contracts with any architect, other design professional or any general contractor shall provide for the assignment thereof to Landlord solely as collateral security to Landlord for Tenant's performance hereunder, and Landlord shall be furnished with a copy of any such contract, together with the further agreement of the parties thereto, that if this Lease is terminated due to Tenant's default, Landlord may, at its election, use any Plans and Specifications to which Tenant is then entitled pursuant to any such contract upon the payment of any sums due to any party thereto. The Landlord's right to elect to use the Plans and Specifications as described above shall be subordinate to and shall not defeat the rights of the Leasehold Mortgagee and Landlord shall execute such agreements as the Leasehold Mortgagee may reasonably request to confirm such subordination.

(j) As-Built Plans and Specifications. Upon the Completion Date, Tenant shall provide Landlord with a complete and legible full-size set of all as-built Plans and Specifications (including all operating manuals for mechanical systems) regarding all of the Tenant's Improvements, as such Plans and Specifications may be amended from time to time, within 30 days after such as-built Plans and Specifications are prepared or after such amendment, as the case may be.

5.02 Construction.

(a) Conditions to Commencement of Construction. Tenant shall satisfy the following conditions in accordance with the time schedule set forth in the Schedule of Performance. In no event shall Tenant commence any construction on the Tenant's Improvements until the following conditions have been complied with by Tenant, in addition to other conditions and requirements imposed by this Lease:

(i) Tenant shall have obtained all permits and other governmental approvals necessary to commence such construction; and

(ii) If Tenant intends to employ a general contractor or contractors for the construction of the Tenant's Improvements, Tenant shall have entered into complete and binding contracts for the construction of the Tenant's Improvements.

(b) Restrictions: Governmental Permits. No Tenant's Improvements shall be constructed or maintained unless the same conform to and are consistent with applicable zoning for the Land, all other applicable Governmental Requirements (including without limitation, any conditional use permit or other license, permit, or certificate required to be issued by Governmental Authorities in connection with the Tenant's Improvements) and the Plans and Specifications approved by Landlord. Before commencement of construction or development of the Tenant's Improvements, Tenant shall, at Tenant's sole cost and expense, secure any and all applicable permits, licenses and other approvals which may be required by any Governmental Authority having jurisdiction over such construction, development or work. Landlord shall have no implied obligation to cause such permits to be issued. Tenant shall provide a copy of the building permit issued by the City of Buffalo to Landlord prior to commencing the subject work or activity.

(c) Construction Standards. All construction, alteration or repair work permitted herein shall be accomplished diligently and in accordance with commercially reasonable engineering practices. Tenant shall take all reasonably necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Tenant shall pay (or cause to be paid) all costs and expenses associated with

such work and shall indemnify and hold Landlord harmless from all damages, lawsuits and claims attributable to the performance of such work. Dust, noise and other effects of such work shall be controlled using commercially reasonable methods customarily utilized by contractors engaged in similar construction projects.

(d) Costs of Construction. The entire cost and expense of constructing any and all Tenant's Improvements shall be borne and paid by Tenant.

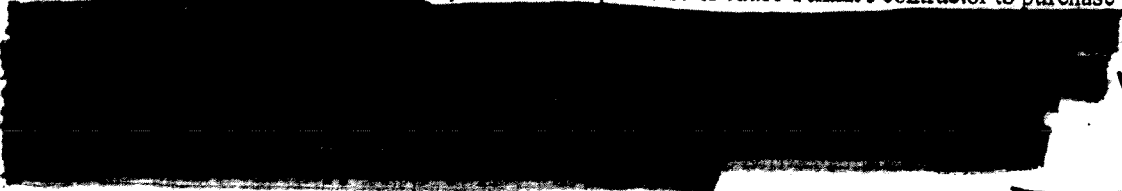
(e) Rights of Access. For the purposes of assuring compliance with this Lease, representatives of Landlord shall have the right of access to the Land and Premises, including public areas, utility easements and access ways (included covered walkways) without charges or fees, at normal construction hours and upon prior notice to Tenant during the Term of this Lease. Nothing in this Lease, however, shall be interpreted to impose an obligation upon Landlord to conduct such inspections or any liability in connection therewith. Landlord will use commercially reasonable efforts not to interfere with any ongoing construction activities of Tenant during any visits to the construction site. During construction activities and prior to entering the Premises Landlord shall deliver to Tenant an ACCORD certificate naming Tenant as an additional insured and evidencing that Landlord maintains liability insurance with limits of ~~no less than one million dollars (\$1,000,000) per occurrence~~

(f) Responsibilities of Landlord. Landlord will assist and cooperate with Tenant in connection with reasonable requests by Tenant for lot line adjustments, tentative or final, parcel, tract or subdivision map approval, variances and any other permit, license or other approval from any Governmental Authority which may be reasonably necessary for or which will facilitate the development, operation and use of the Tenant's Improvements pursuant to this Lease.

(g) Reports. During the Construction Period, Tenant shall furnish Landlord with monthly progress reports demonstrating compliance with the construction requirements of this Lease for the prior month.

5.03 Surety.

(a) Performance and Surety Bonds. Prior to the commencement of construction of any portion of the Tenant's Improvements, Tenant shall purchase or cause Tenant's contractor to purchase



ARTICLE VI TAXES



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**ARTICLE VII
UTILITY SERVICES AND CHARGES**

[REDACTED]

ARTICLE VIII
ALTERATIONS

8.01 Tenant shall have the right, at Tenant's expense, from time to time during the Term of this Lease, to make any alteration, addition or modification to the Tenant's Improvements; provided, however, that (a) any external structural alterations, additions or modifications costing in excess of [REDACTED] shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed and (b) such alterations, additions or modifications shall not affect the permitted use of the Premises.

ARTICLE IX
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ARTICLE X
RIGHT TO MORTGAGE

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ARTICLE XII
SURRENDER UPON EXPIRATION OR EARLIER TERMINATION

12.01 Surrender. Upon the expiration or earlier termination of the Term, subject to Landlord's and Tenant's rights as set forth in Article II above, Tenant will forthwith surrender and deliver the Premises lien free, and to the extent then existing, any Tenant's Improvements, to Landlord and will place Landlord in quiet and peaceable possession of the same in reasonable order, condition and repair, except for damage or destruction thereof by fire, condemnation, act of God, earthquake, public enemy, act of war or other casualty which is not Tenant's responsibility hereunder, and subject to reasonable wear and tear.

Upon request of Landlord at the termination of the Lease, Tenant shall execute and deliver to Landlord any quit claim deed, bill of sale or other instrument reasonably required to evidence the vesting of title to the Premises and Tenant's Improvements in Landlord to the extent they are transferred to Landlord.

ARTICLE XIII
HOLDING OVER AFTER TERM

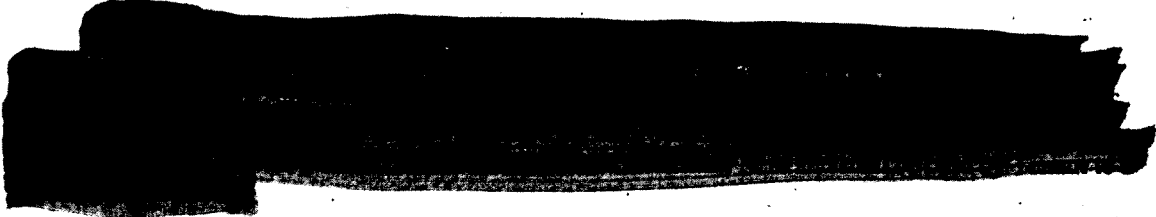
13.01 If Tenant shall hold all or any part of the Premises after the expiration of the Term or any Renewal Term, such holding over shall, in the absence of written agreement on the subject, be deemed to have created a tenancy from month to month terminable on thirty (30) days' notice by either party to the other, at a monthly rental equal to 150% times the monthly rental payable during the last Lease Year of said Term or Renewal Term.

ARTICLE XIV
DEFAULT

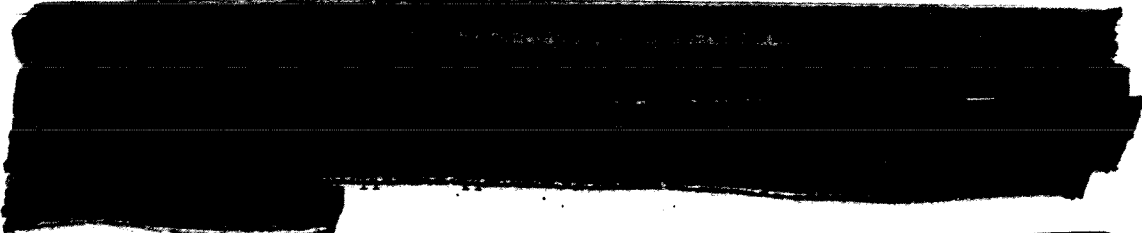
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ARTICLE XV
LANDLORD MAY CURE DEFAULTS




ARTICLE XVI
CONDEMNATION



ARTICLE XVII
EXPENSE OF ENFORCEMENT



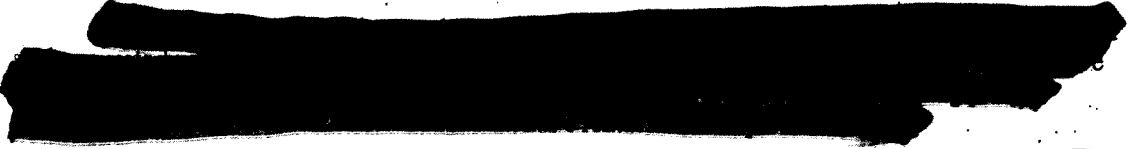


ARTICLE XVIII
STATUS OF LEASEHOLD ESTATE

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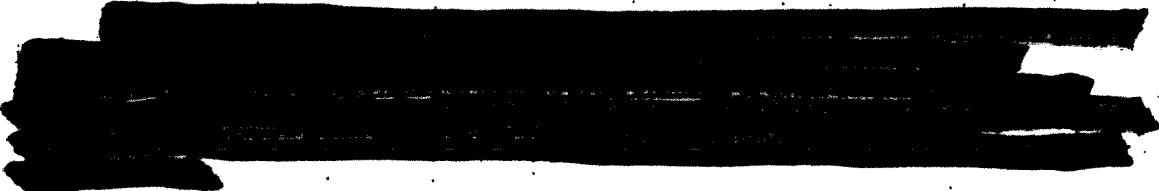
ARTICLE XIX
ESTOPPEL CERTIFICATE





ARTICLE XX
INTENTIONALLY OMITTED

ARTICLE XXI LANDLORD NOT LIABLE FOR INJURY OR DAMAGE



ARTICLE XXII
INDEMNIFICATION OF LANDLORD

(redacted)



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ARTICLE XXIII
INSURANCE

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**ARTICLE XXIV
MAINTENANCE AND REPAIRS; DAMAGE AND DESTRUCTION**

(redacted)

**ARTICLE XXV
SPECIAL LENDER PROVISIONS**

[REDACTED]

(a) [REDACTED]

-22- (next 2 pgs. redacted)

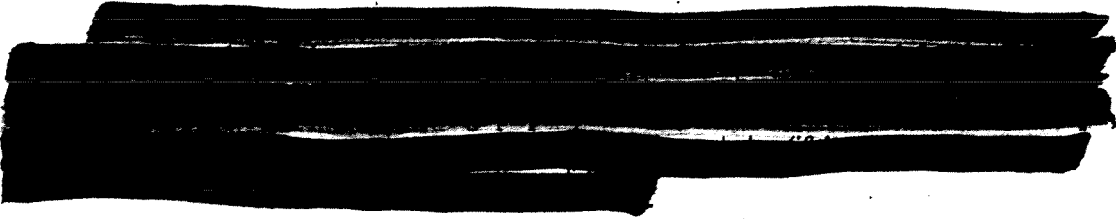
ARTICLE XXVI
ASSIGNMENT, SUBLETTING, ETC.

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ARTICLE XXVII
NOTICE



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ARTICLE XXVIII
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ARTICLE XXIX
MISCELLANEOUS PROVISIONS

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ARTICLE XXX
ENVIRONMENTAL CONTAMINATION

30.01 Tenant Use of Premises. Tenant shall not cause or knowingly permit any hazardous substance to be disposed of in, on or about the Premises except as would be customarily used in a medical office building or hospital facility. Further, Tenant shall not cause or knowingly permit any hazardous substance to be used, stored or generated in, on or about the Premises in any manner that is in violation, non-compliance or non-conformance with any local, state or federal statute, law, ordinance, rule, regulation or requirement. Tenant shall comply with, and shall include covenants in the Subleases with all of its Subtenants to cause them to comply with, federal, state and local laws, ordinances or regulations relating to: (1) industrial hygiene, (2) the environmental conditions on, under or about the Demised Premises including, but not limited to, soil and groundwater conditions, and (3) the use, generation,

manufacture, production, storage or disposal on, under, or about the Premises or transportation to or from the Premises of flammable explosives, radioactive materials, hazardous wastes, toxic substances or related injurious materials, whether injurious by themselves or in combination with other materials (collectively, "Hazardous Materials"). For the purpose of this Lease, Hazardous Materials shall include, but not be limited to, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Articles 15 and 27 of the New York State Environmental Conservation Law; and in the regulations adopted and publications promulgated from time to time pursuant to said laws.

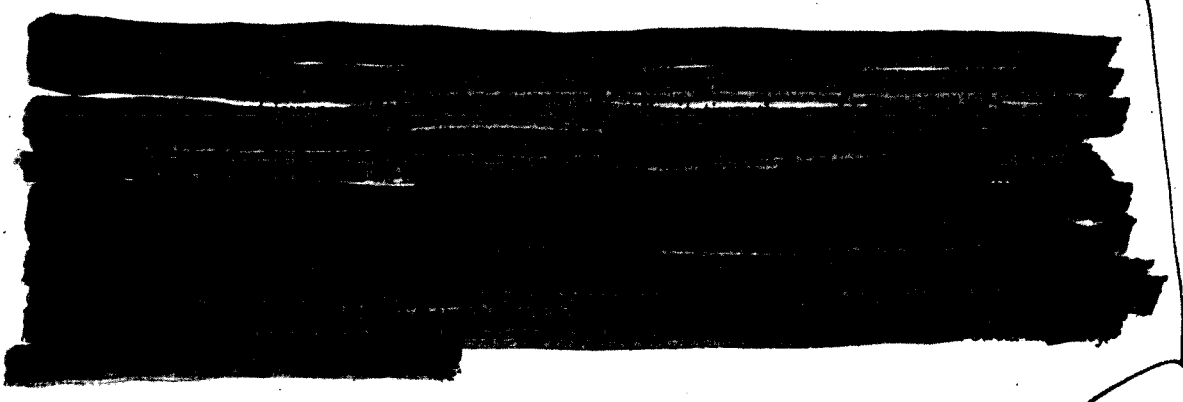
30.02 Tenant Indemnity for Use of Premises. Tenant shall defend, indemnify and hold Landlord harmless from and against any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including without limitation any and all sums paid for settlement of claims, reasonable attorney fees, consultant fees and expert fees) arising during or after the Term as a result of Tenant's use, operation, storage or disposal of hazardous substances in, on or about the Premises. This indemnity shall survive the termination of this Lease as to hazardous substances first introduced onto the Premises during the Term or any Renewal Term of this Lease.

30.03 Special Landlord Provisions.

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(e) As used in this Article XXX, defined terms shall be as follows:

(i) "Contamination" means the presence at, on, under, originating or migrating from any property of any chemical, compound, material, substance or other matter that: (i) is a flammable, corrosive, explosive, hazardous, toxic or regulated material, waste, or other injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (ii) is a hydrocarbon, petroleum, petroleum additive or petroleum product, or natural gas or natural gas product; (iii) is controlled, designated in, regulated or governed by any applicable Environmental Law (as herein defined); or (iv) gives rise to any requirements or obligations (including but not limited to reporting, notice or publication requirements or response, removal or remediation) under any applicable Environmental Law. Contamination shall also include any previously unknown Contamination, and any increase in existing Contamination.

(ii) "Environmental Law" or "Environmental Laws" means any and all federal, state, or local laws, statutes, ordinances, rules, decrees, orders, or regulations relating to the environment, hazardous substances, hazardous materials, hazardous waste, toxic substances, pollutants or words of similar import, or environmental conditions at, on, under, or originating or migrating from the Properties, or soil, water and groundwater conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601, et seq., the Clean Air Act, as amended, 42 U.S.C. § 1857 et seq., the Federal Water Pollution Control Act, as amended, 42 U.S.C. § 1251 et seq., and the Federal Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., any amendments to the foregoing, and any similar federal, state or local laws, statutes, ordinances, rules, decrees, orders or regulations.

(iii) "Public Authorities" shall mean the New York State Department of Environmental Conservation and any other governmental or quasi-governmental agencies having the right or authority to investigate and/or require Remediation Activities.

(iv) "Remediation Activity" or "Remediation Activities" means any investigation (including without limitation, any site investigation), study, assessment, testing, monitoring, containment, removal, disposal, closure, corrective action, remediation (whether active or passive), natural attenuation, bioremediation, response, monitoring, containment, removal, treatment, cleanup or abatement work and, whether on-site or off-site, of Contamination to applicable standards as required by Environmental Laws.

ARTICLE XXXI
EASEMENTS AND OTHER PROPERTY RIGHTS

(redacted)

ARTICLE XXXII
LANDLORD REIMBURSEMENT

32.01 Intentionally Omitted.

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IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed and delivered as of the date first set forth above.

LANDLORD:

TENANT:

By: [Signature]
Its: Joseph Kessler, EVP+CFO

By: [Signature]
Its: Frank L. Cimminelli
President

State of New York

County of: Erie

On December 2, 2011, before me, the undersigned personally appeared Frank Cimminelli personally known to me -or- () proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is / are subscribed to the within instrument and acknowledged to me that he / she / they executed the same in his / her / their authorized capacity (ies) and that by his / her / their signature(s) on the instrument the person (s) or the entity upon behalf of which the person (s) acted, executed the instrument.

Witness my hand and official seal.
(Official notary seal)

[Signature]
(Notary signature)

SUJATA YALAMANCHILI
No. 02YA6031106
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 27, 2013

State of New York

County of: Erie

On December 2, 2011, before me, the undersigned personally appeared Joseph Kessler () personally known to me -or- () proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is / are subscribed to the within instrument and acknowledged to me that he / she / they executed the same in his / her / their authorized capacity (ies) and that by his / her / their signature(s) on the instrument the person (s) or the entity upon behalf of which the person (s) acted, executed the instrument.

Witness my hand and official seal.
(Official notary seal)

[Signature]
(Notary signature)

SUJATA YALAMANCHILI
No. 02YA6031106
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 27, 2013

JOINDER

In consideration for the rights and obligations affecting Kaleida as set forth in the Lease, which rights and obligations Kaleida acknowledges constitute a substantial consideration for the execution of the Lease by Landlord, Kaleida joins in the Lease for the purpose of consenting to and acknowledging its rights and obligations as set forth therein. Kaleida, by executing this joinder, also confirms that it has obtained all necessary consents required as a pre-requisite to its executing this Joinder and that the obligations set forth herein are valid, binding and enforceable against Kaleida.

KALEIDA HEALTH

By: 

Its: _____

Date: _____

Exhibit "A".

Legal Description of the Premises

(Suggested Description)

1.402± Acres

Job No. 7669-C

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, and being part of Lot 29, Township 11, Range 8 of the Holland Land Company survey (so-called), bounded and described as follows:

BEGINNING AT the intersection of the east line of Main Street and the south line of Goodrich Street;
RUNNING THENCE: Easterly, along the south line of Goodrich Street, a distance of 191.58 feet to a point;

RUNNING THENCE: Southerly, at an interior angle of $89^{\circ}-46'$ with the last described line, a distance of 274.85 feet to a point on the north line of High Street;

RUNNING THENCE: Westerly, along the north line of High Street and at an interior angle of $90^{\circ}-16'-10''$ with the last described line, a distance of 252.70 feet to a point on the east line of Main Street;

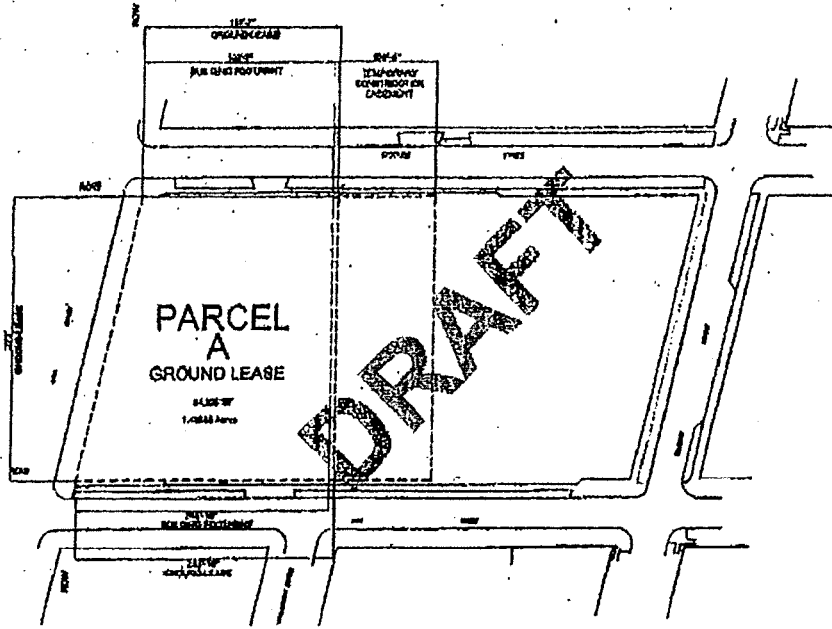
RUNNING THENCE: Northeasterly, along the east line of Main Street and at an interior angle of $77^{\circ}-12'-46''$ with the last described line, a distance of 281.96 feet to the POINT OR PLACE OF

BEGINNING, containing 1.402 Acres, be the same, more or less.

SUBJECT to easements, rights of way and restrictions of record.

Exhibit "B"

Depiction of the Premises



Site Plan - Ground Lease
Date: 02/28/12

North Arrow
Scale: 1" = 100'
Legend

Exhibit "C"

Site Plan/Proposed Elevation

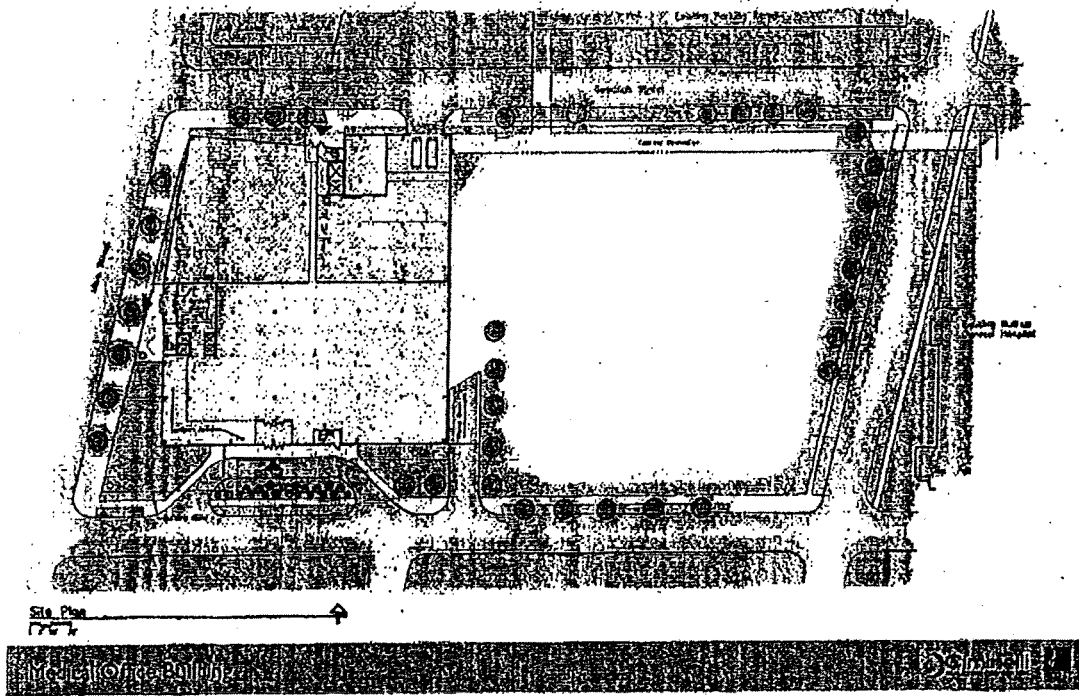


Exhibit "D"

Memorandum of Lease

MEMORANDUM OF GROUND LEASE

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facilities, hotel; residential, recreational, child care and restaurants servicing patients, tenants, guests, invitees and the general public.

Notwithstanding the foregoing, Tenant shall not lease retail space to a Subtenant for use as a pharmacy for the retail sale to the public of prescription and non-prescription medications (a "Retail Pharmacy") only for so long as Landlord or a wholly owned subsidiary of Landlord solely owns and operates such Retail Pharmacy and such Retail Pharmacy is open for business to the general public within the Premises. Landlord must notify Tenant in writing prior to the commencement of construction of the Tenant's Improvements whether or not it intends to operate a Retail Pharmacy within the Premises. In the event the Retail Pharmacy is not owned and operated solely by Landlord or a wholly owned affiliate of Landlord, Landlord's right to operate a Retail Pharmacy within the Premises shall immediately terminate and the Retail Pharmacy operated by Landlord shall immediately close. In the event the Retail Pharmacy otherwise ceases operations for any reason (except to the extent resulting damage or destruction pursuant to Article XXIV below) Landlord's right to operate a Retail Pharmacy within the Premises shall immediately terminate.

Tenant shall not lease space within the Premises: (i) to physicians, physician practice groups or other medical providers ("Competing Medical Providers") employed by, or involved in any contractual relationship with, a hospital corporation directly competing for patients with Landlord or with Kaleida Health, a New York State not for profit corporation ("Kaleida") ("Competing Hospital Provider") unless such Competing Physician Providers are also employed by Kaleida Health, Great Lakes Health, General Physicians, P. C., or any subsidiary professional corporation of General Physicians, P. C. or an affiliate of any of the foregoing, (ii) to a Competing Hospital Provider, (iii) to others providing outpatient medical services ("Outpatient Medical Services") offered by Kaleida within the Medical Campus ("Competing Outpatient Services", as defined below). A prospective Subtenant shall be considered to be providing Competing Outpatient Services to the extent the primary use or any significant ancillary use proposed by such prospective Subtenant is being provided by Kaleida within the Medical Campus at the time a Proposed Use Summary (defined below) is submitted to Landlord for its approval and such primary or ancillary use would be competing directly with the service then being provided by Kaleida. By way of example only, it shall not be considered a significant ancillary use if a physician or medical provider is drawing blood from his/her patients incidental to his/her practice or, if, in the regular course of practice, a physician or medical provider provides limited diagnostic testing through the use of such portable diagnostic tools as a portable sonogram.

The prohibition against Tenant subleasing space within the Premises to Competing Medical Providers, to Competing Hospital Providers, or to others providing Competing Outpatient Services, as set forth in (i) through (iii) above shall terminate if Kaleida does not own or operate a major hospital facility within the Medical Campus, as shall the restrictions set forth below.

Notwithstanding the foregoing, Tenant may sublease space within the Premises to (A) medical providers offering medical services at the Medical Campus as of the Effective Date or (B) if Landlord or Kaleida (or an affiliate thereof) ceases to sublease at least 85,000 square feet of rentable square feet at the Premises, to any medical provider other than a Competing Medical Provider or a Competing Hospital Provider, but in such case, only for uses other than the following: (i) a diagnostic therapeutic imaging center, (ii) surgery, other than "Outpatient Surgery", as defined below, (iii) urgent care, (iv) emergency services, (v) birthing of babies, (vi) pediatric in-patient invasive services, (vii) dedicated center for performance of gastrointestinal procedures, or (viii) ambulatory surgical centers, being defined as a service organized to provide these surgical procedures which need to be performed for safety reasons in

an operating room on anesthetized patients requiring a stay of less than 24 hours. "Outpatient Surgery" is defined as a procedure which may be performed on an outpatient basis, is a diagnostic test or treatment, including certain surgical procedures, that carries a low patient risk, requires minimal pre- and post-procedure observation and treatment, is not likely to be time consuming or followed by complications, and is not associated with a condition which would require hospitalization.

Provided Kalcida owns, controls or operates a full service hospital facility at the Medical Center, Tenant shall not sell the Tenant's Improvements or assign its rights pursuant to this Lease to a Competing Medical Provider, a Competing Hospital Provider, or to a party providing Competing Outpatient Services.

Each of the Subleases into which Tenant enters at the Premises will contain the following language: "Tenant agrees that it will not engage in any uses of the premises except as expressly set forth herein, without the prior written consent of Landlord and Prime Landlord, which consent may be withheld or denied in accordance with the Terms of the Prime Lease. Tenant further agrees that Prime Landlord is an intended third party beneficiary of the provisions of this Lease defining and restricting the uses permitted hereunder. Accordingly, Prime Landlord will have all rights and remedies available at law or in equity to enforce such provisions directly against Tenant or anyone claiming by or through Tenant".

IN WITNESS WHEREOF, the parties hereto have respectively executed this Memorandum of Lease as of this 2nd day of December, 2011.

LANDLORD:
KALEIDA PROPERTIES INC.

By: _____
Name:
Title:

TENANT:
F.L.C. 50 HIGH STREET CORPORATION

By: _____
Name:
Title:

ACKNOWLEDGMENT

STATE OF _____)
:ss.
COUNTY OF _____)

On the ____ day of _____, in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF _____)
:ss.
COUNTY OF _____)

On the ____ day of _____, in the year 2011, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

AFTER RECORDING RETURN TO:

Blaine S. Schwartz
Lippes Mathias Wexler Friedman LLP
665 Main Street, Suite 300
Buffalo, New York 14203

ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (this "**Assignment and Assumption**") is entered into as of July 30, 2013 (the "**Effective Date**") by and between F.L.C. 50 HIGH STREET CORPORATION, a New York corporation, having an office address c/o Ciminelli Properties, LLC, 350 Essjay Road, Suite 101, Williamsville, New York 14221 ("**Assignor**"), and CONVENTUS PARTNERS, LLC, a Delaware limited liability company, having an office address at 350 Essjay Road, Suite 101, Williamsville, New York 14221 ("**Assignee**"; Assignor and Assignee are each referred to herein as a "**party**" and, collectively, as the "**parties**").

RECITALS:

WHEREAS, Assignor and Kaleida Properties, Inc. ("**Landlord**") entered into that certain Ground Lease dated as of December 2, 2011 (the "**Original Ground Lease**"), as evidenced by a Memorandum of Ground Lease dated December 2, 2011 and recorded on December 22, 2011 in the Erie County Clerk's Office in Liber 11214 of Deeds at Page 4078, and as further evidenced by that Confirmation of Ground Lease and Ratification of Memorandum of Ground Lease dated as of December 7, 2012 and recorded on April 2, 2013 in the Erie County Clerk's Office in Liber 11243 of Deeds at Page 128, as amended by that certain First Amendment to Ground Lease made as of November 8, 2012 between Assignor and Landlord (the "**First Amendment**"), as amended by that certain Second Amendment to Ground Lease made as of December 8, 2012 between Assignor and Landlord (the "**Second Amendment**"), and as further amended by that certain Third Amendment to Ground Lease made as of July __, 2013 between Assignor and Landlord (the "**Third Amendment**"; the Original Ground Lease, the First Amendment, the Second Amendment and the Third Amendment are collectively referred to hereinafter as the "**Ground Lease**") pursuant to which Assignor is the ground lessee of approximately 61,226 square feet of land as is more particularly described on **Exhibit A** attached hereto (the "**Premises**"); and

WHEREAS, Assignor desires to assign to Assignee all of its rights as Tenant under the Ground Lease; and

WHEREAS, Assignee desires to assume all of Assignor's rights and obligations as Tenant under the Ground Lease.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals/definitions.** The Recitals set forth above are incorporated in to and made a part of this Assignment and Assumption. All terms not otherwise defined shall have the meaning as set forth in the Ground Lease.

2. Representations and Warranties. Assignor represents and warrants that (i) the Ground Lease is in full force and effect, (ii) that neither Assignor, nor to its knowledge Landlord, is in default thereunder, and (iii) no consent of any third party is required for Assignor to enter into and/or perform its obligations under this Assignment and Assumption.

3. Assignment. Assignor hereby assigns, transfers, conveys and sets over unto Assignee, its successors and assigns, as of the Effective Date, any and all of Assignor's right, title and interest in, to and under the Ground Lease as Tenant; and, incident to such assignment of Assignor's interest under the Ground Lease, Assignor also hereby grants, bargains, conveys, and sells to Assignee, and its successors and assigns, all right, title and interest (if any) of Assignor under the Ground Lease, in and to the improvements, including all fixtures, equipment, and personal property therein or thereon, located on the Premises, subject to Landlord's right of reversion under the Ground Lease.

4. Assumption. Assignee hereby accepts the foregoing assignment (including, without limitation, the foregoing grant, bargain, conveyance and sale of all right, title and interest (if any) in and to the improvements, including all fixtures, equipment, and personal property therein or thereon, located on the Premises, subject to Ground Lessor's right of reversion under the Ground Lease), and hereby covenants and agrees that, from and after the Effective Date, Assignee shall assume, observe, perform and fulfill each of the terms, covenants, conditions and obligations of Assignor under the Ground Lease as Tenant.

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6. Successors and Assigns. The terms and conditions of this Assignment and Assumption shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7. Counterparts. This Assignment and Assumption may be executed in several counterparts, each of which shall constitute one and the same instrument.

8. Severability. If any one or more of the provisions of this Assignment and Assumption is held to be invalid, illegal or unenforceable, in whole or in part, or in any respect, then such provisions or provisions only will be deemed to be null and void and of no force or effect and will not affect any other provision of this Assignment and Assumption, and the remaining provisions of this Assignment and Assumption will remain operative and in full force and effect and will in no way be affected, prejudiced or disturbed.

9. Governing Law. This Assignment and Assumption is to be governed by, construed and enforced in accordance with, the laws of the State of New York, without regard to its rules of conflict of laws.

10. Further Assurances. Assignor and Assignee, for themselves and their successors and assigns, hereby agrees to do all things, take all actions, and to execute, acknowledge, deliver and record all documents, instruments, agreements, and assurances as are necessary to more fully effect the assignment contemplated hereby upon the request of Assignee or Assignor, their successors or assigns, as the case may be.

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Exhibit A

Legal Description of Premises

(Suggested Description)

1.402± Acres

Job No. 7669-C

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Buffalo, County of Erie, State of New York, and being part of Lot 29, Township 11, Range 8 of the Holland Land Company survey (so-called), bounded and described as follows:

BEGINNING AT the intersection of the east line of Main Street and the south line of Goodrich Street;
RUNNING THENCE: Easterly, along the south line of Goodrich Street, a distance of 191.58 feet to a point;

RUNNING THENCE: Southerly, at an interior angle of 89°-46' with the last described line, a distance of 274.85 feet to a point on the north line of High Street;

RUNNING THENCE: Westerly, along the north line of High Street and at an interior angle of 90°-16'-10" with the last described line, a distance of 252.70 feet to a point on the east line of Main Street;

RUNNING THENCE: Northeasterly, along the east line of Main Street and at an interior angle of 77°-12'-46" with the last described line, a distance of 281.96 feet to the POINT OR PLACE OF

BEGINNING, containing 1.402 Acres, be the same, more or less.

SUBJECT to easements, rights of way and restrictions of record.

FIRST AMENDMENT TO GROUND LEASE

THIS FIRST AMENDMENT TO GROUND LEASE (this “**First Amendment**”), made as of November 8, 2012, by and between **KALEIDA PROPERTIES INC.**, having an office at 726 Exchange Street, Buffalo, New York (“**Landlord**”) and **F.L.C. HIGH STREET CORPORATION**, having an office at 350 Essjay Road, Williamsville, NY 14221 (“**Tenant**”).

W I T N E S S E T H:

WHEREAS, Landlord and Tenant entered into that certain Ground Lease dated as of December 2, 2011 for the Land described therein (the “**Lease**”), and

WHEREAS, Landlord and Tenant have agreed to amend the Ground Lease as set forth herein.

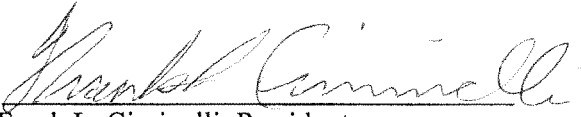
NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. The following is added to the end of section 2.01 (a): Tenant shall have the right to extend the Term of this Ground Lease for two additional terms of thirteen (13) years each (each an “**Option Term**”) by providing Landlord with at least twelve (12) months prior written notice. Adjusted Ground Rent shall be determined pursuant to the formula set forth in section 3.01 (c) of the Ground Lease, with the exception that the Adjusted Ground Rent shall be set as of the date that is one hundred and eighty (180) days prior to the end of the forty ninth (49th) Lease year and, if the second **Option Term** is exercised, the date that is one hundred and eighty (180) days prior to the end of the sixty second (62nd) Lease Year.
2. The Medical Campus, as referenced in the Ground Lease, shall be the area shown on Exhibit “**A**”, attached hereto and incorporated herein.
3. Except as otherwise set forth herein all other terms and conditions set forth in the Ground Lease shall remain in full force and effect.
4. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Ground Lease.
5. The individuals executing this First Amendment hereby represent and warrant that they are empowered and duly authorized to so execute this First Amendment on behalf of the parties they represent.
6. This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be duly executed the day and year first above written.

F.L.C. HIGH STREET CORPORATION

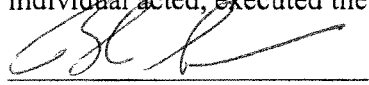
By: 
Frank L. Ciminelli, President

STATE OF NEW YORK)

)SS:

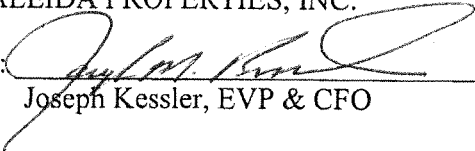
COUNTY OF ERIE)

On the 8 day of December in the year 2012 before me, the undersigned, a notary public in and for said state, personally appeared Frank L. Ciminelli, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

BLAINE S. SCHWARTZ
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 29, 2014

KALEIDA PROPERTIES, INC.

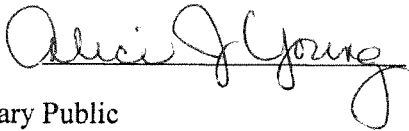
By: 
Joseph Kessler, EVP & CFO

STATE OF NEW YORK)

)SS:

COUNTY OF ERIE)

On the 8th day of November in the year 2012 before me, the undersigned, a notary public in and for said state, personally appeared Joseph Kessler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

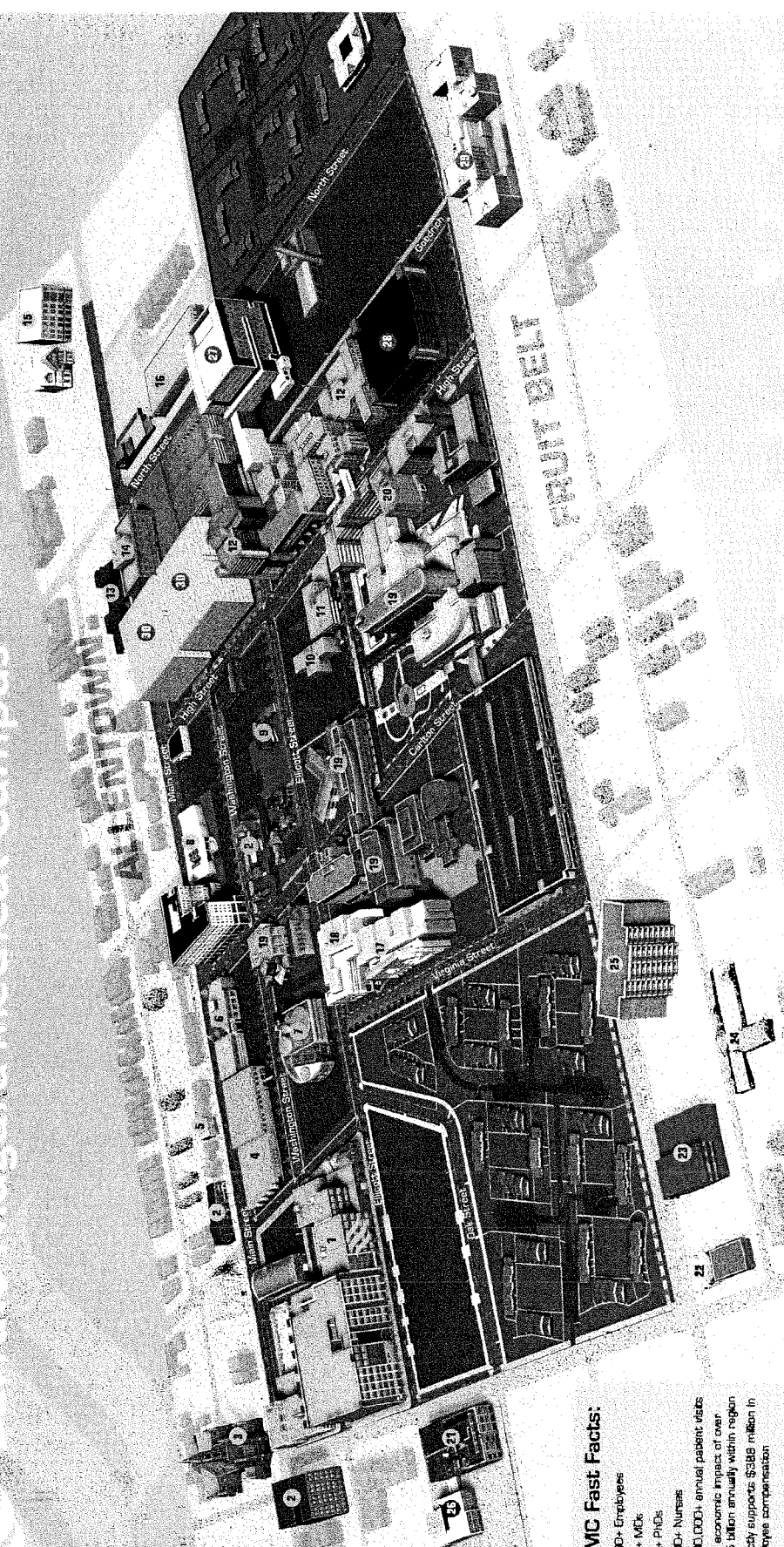
ALICE J. YOUNG
NOTARY PUBLIC-STATE OF NEW YORK
Qualified in Erie County
My Commission Expires January 31, 2014



Buffalo Niagara Medical Campus

ALLENTOWN

DOWNTOWN



BMNC Fast Facts:

- 8,500+ Employees
- 500+ MDs
- 200+ PhDs
- 1,400+ Nurses
- 1,000,000+ annual patient visits
- Total economic impact of over \$1.5 billion annually within region
- Directly supports \$388 million in employee compensation

- | | | | |
|--|---|--|---|
| 1. Inpatient Center | 15. Dental Center for Sight | 20. Doubtless Club Hotel | 27. UB Educational Opportunity Center |
| 2. Residential and/or Commercial Space | 16. Birnie, Hearing and Speech Center | 21. UB - Downtown Delivery | 28. UB - Clinical and Translational Research Center |
| 3. St. Louis RC Church | 17. Roswell Park - Center for Genetics and Pharmacology | 22. St. John Baptist Church | 29. Kaleda Health - Skilled Nursing Facility |
| 4. Synagogue | 18. UB - New York State Center of Excellence in Biotechnology and Life Sciences | 23. Reverend Dr. Barnett M. Smith Sr. Family Life Center | 30. Future Development Sites |
| 5. Zipporah | 19. Roswell Park Cancer Institute | 24. St. John Baptist - Hospice/ Buffalo House | |
| 6. Health Clinic | | 25. St. John Towers | |
| 7. Hayslip - Wyoming Medical Research Institute | | | |
| 8. Allen Medical Campus Metro Rail Station | | | |
| 9. Kevin Guest House | | | |
| 10. Chevalier Boudoir | | | |
| 11. Buffalo Medical Group | | | |
| 12. Kaleda Health - Buffalo General Hospital | | | |
| 13. Kaleda Health - Community Mental Health Center | | | |
| 14. UB Research Institute on Adulthood | | | |

SECOND AMENDMENT TO GROUND LEASE

THIS SECOND AMENDMENT TO GROUND LEASE (this "**First Amendment**"), made as of December 8, 2012, by and between **KALEIDA PROPERTIES INC.**, having an office at 726 Exchange Street, Buffalo, New York ("Landlord") and **F.L.C. HIGH STREET CORPORATION**, having an office at 350 Essjay Road, Williamsville, NY 14221 ("Tenant").

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Ground Lease dated as of December 2, 2011, as amended by a First Amendment to Ground Lease dated Nov 8, 2012, for the Land described therein (the "Lease"), and

WHEREAS, Landlord and Tenant have agreed to amend the Ground Lease as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Section 30.03(a), (b), (c) and (d) of the Lease are deleted in their entirety and replaced with the following:

(a) As of the date of this Agreement, and subject to the terms set forth below, Tenant agrees to be responsible for the remediation of petroleum Spill Number 9500234 (the "Spill") on the Land as required by any Public Authorities such that a certificate of completion will be issued by the Public Authorities along with a release of liability as contemplated by the Brownfield Site Clean Up Agreement dated April __, 2012, as amended on August 7, 2012 (the "BCA") (the "Spill Remediation"). Tenant will provide Landlord with evidence of insurance coverage satisfactory to Landlord, in its reasonable judgment, from any and all such contractors and Tenant prior to any entry onto the Land.

(b) Tenant further hereby agrees to undertake, at its sole cost and expense, all reporting and notification required under the Environmental Laws for remediation of the Spill and shall undertake, in good faith and with due diligence, all Remediation Activities of the Spill Contamination required by the relevant Public Authorities, the BCA, and in compliance with the Environmental Laws.

(c) 

(redacted)

2. Except as otherwise set forth herein all other terms and conditions set forth in the Ground Lease shall remain in full force and effect.

3. Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Ground Lease.

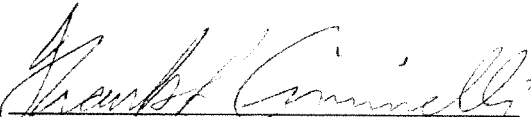
4. The individuals executing this Second Amendment hereby represent and warrant that they are empowered and duly authorized to so execute this First Amendment on behalf of the parties they represent.

5. This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement.

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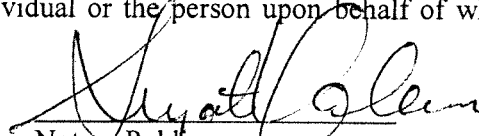
IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be duly executed the day and year first above written.

F.L.C. HIGH STREET CORPORATION

By: 
Frank L. Ciminelli, President

STATE OF NEW YORK)
)SS:
COUNTY OF ERIE)

On the 8th day of December in the year 2012 before me, the undersigned, a notary public in and for said state, personally appeared Frank L. Ciminelli, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

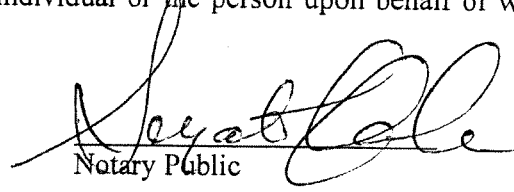
SUJATA YALAMANCHILI
No. 02YA6031106
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 27, 2013

KALEIDA PROPERTIES, INC.

By: 
Joseph Kessler, EVP & CFO

STATE OF NEW YORK)
)SS:
COUNTY OF ERIE)

On the 8th day of December in the year 2012 before me, the undersigned, a notary public in and for said state, personally appeared Joseph Kessler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

SUJATA YALAMANCHILI
No. 02YA6031106
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 27, 2013

THIRD AMENDMENT TO GROUND LEASE

THIS THIRD AMENDMENT TO GROUND LEASE (this "Third Amendment"), made as of July 31, 2013, by and between **KALEIDA PROPERTIES INC.**, having an office at 726 Exchange Street, Buffalo, New York ("Landlord") and **F.L.C. 50 HIGH STREET CORPORATION**, having an office at 350 Essjay Road, Williamsville, NY 14221 ("Tenant").

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Ground Lease dated as of December 2, 2011, as amended by a First Amendment to Ground Lease dated November 8, 2012, and a Second Amendment to Ground Lease dated December 8, 2012, for the Land described therein (collectively, the "Ground Lease"), and

WHEREAS, Landlord and Tenant have agreed to amend the Ground Lease as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Section 1(e) of the Second Amendment to Ground Lease is deleted in its entirety and replaced with the following:

(redacted)

2. Section 18.02 of the Ground Lease is deleted in its entirety and replaced with the following:

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3. The introductory clause to Section 25.01 is deleted in its entirety and replaced with the following:

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IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be duly executed the day and year first above written.

50
F.L.C. HIGH STREET CORPORATION

By: William B Stark
Name: William B. Stark, Jr. - Vice President
Its: _____

STATE OF NEW YORK)

)SS:

COUNTY OF ERIE)

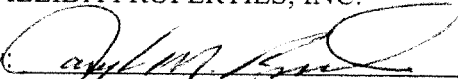
On the 26 day of July in the year 2013 before me, the undersigned, a notary public in and for said state, personally appeared William B. Stark, Jr.; personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Blaine S. Schwartz

Notary Public

BLAINE S. SCHWARTZ
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 29, 2014

KALEIDA PROPERTIES, INC.

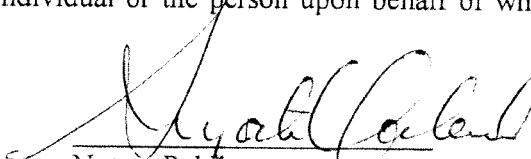
By: 
Joseph Kessler, EVP & CFO

STATE OF NEW YORK)

)SS: Amherst

COUNTY OF ERIE)

On the 29th day of July in the year 2013 before me, the undersigned, a notary public in and for said state, personally appeared Joseph Kessler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

SUJATA YALAMANCHLI
No. 02YA6031106
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 27, 2013