

=====

GROUND LEASE

from

City of Gahanna, Ohio, as Lessor

to

The Young Men's Christian Association of Central Ohio, as Lessee

Dated as of _____, ~~2001~~ 2002

=====

TABLE OF CONTENTS
OF
GROUND LEASE

<u>Section</u>	<u>Heading</u>	<u>Page</u>
Preambles		

GROUND LEASE

THIS GROUND LEASE (the "Lease") dated as of _____, ~~2004~~ **2002**, by and between the City of Gahanna, Ohio, a municipal corporation and political subdivision of the State of Ohio ("Lessor"), and The Young Men's Christian Association of Central Ohio, an Ohio not for profit corporation ("Lessee").

WITNESSETH THAT:

WHEREAS, Lessor, is the fee owner of a certain tract of real estate containing _____ acres, more or less, situated in the City of Gahanna, County of Franklin and State of Ohio (the "Land"), as the same is more particularly described in Exhibit "A" and depicted on Exhibit "B" (the "Site Plan"), each attached hereto and made a part hereof; and

WHEREAS, Lessor desires to have constructed on the Land, and Lessee desires to construct thereon, a community recreational center (the "Building"), the primary purpose of which is to provide recreational and fitness opportunities to the citizens of Lessor (the Land, the Building, any easements or other rights granted to Lessee pursuant to Article I hereof and any and all other improvements thereto being referred to collectively hereinafter as the "Premises"); and

WHEREAS, Lessee is desirous of acquiring a leasehold interest in the Land and in any easements herein granted (the "Leasehold Estate") for the purpose of providing, maintaining and operating the Premises, as described herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Lessor and Lessee agree as follows:

ARTICLE I - DEMISE

1.1 The Land. Lessor does hereby demise and lease to Lessee, and Lessee does hereby hire and take from Lessor, the Land, for the term, at the rentals and upon the covenants, contingencies, conditions, limitations and agreements herein contained.

1.2 Possession and Inspection. From and after the Commencement Date, and continuing throughout the Term hereof, Lessee shall be entitled to full and exclusive possession of the Land. Without limiting the generality of the foregoing, Lessee shall have the right to enter upon and take possession of the Land for all purposes, including the making of surveys, soil tests, borings, percolation tests and other tests to obtain any relevant information necessary to determine subsurface, topographical, environmental and drainage conditions and the suitability of the Land for use by Lessee.

ARTICLE II - TERM

2.1 Term. The term of this Lease (the "Term") shall be ninety-nine (99) years, commencing ~~_____~~ **2002** (the "Commencement Date") and ending on ~~_____~~ **2100**, unless this Lease shall sooner terminate as hereinafter provided.

2.2 Renewal. As additional consideration for the rent and covenants to be paid and performed by Lessee under this Lease, Lessee is hereby given the right to extend this Lease for one (1) additional period of ninety-nine (99) years, upon the same terms, covenants, conditions and provisions of this Lease. Said renewal option shall be exercisable only by a written notice of such exercise from Lessee to Lessor not less than twelve (12) months prior to the expiration of the term hereof; provided, however, that the granting of said renewal option shall be null and void should Lessee be in default in the performance of any of its obligations under the terms hereof upon either the expiration date of the term, or upon the date of exercise of said option by Lessee.

2.3 Effect of Lessee's Holding Over. Any holding over after the expiration of the Term of this Lease, with the consent of Lessor, shall be construed to be a tenancy from month to month on the terms, covenants and conditions herein specified, so far as applicable. No payments of money by Lessee to Lessor after the termination of this Lease shall reinstate the Term of this Lease, and no such reinstatement after the termination hereof shall be valid unless and until the same shall be reduced to writing and signed by both Lessor and Lessee.

ARTICLE III - RENT

3.1 Rental. During the Term of this Lease, Lessee shall pay to Lessor annual rent (the "Rent") of One Dollar (\$1.00) per year. The Rent shall be payable in advance, without deduction or setoff, on the Commencement Date and each anniversary thereof. Lessee shall have the right to prepay the Rent at any time and from time to time.

ARTICLE IV - CONTINGENCIES

4.1 Contingent Lease. This Lease shall be wholly and completely contingent upon and subject to the satisfaction in favor of Lessee, or the waiver by Lessee, of the contingencies set forth in Section 4.2 hereof (the "Contingencies"), on or before the date set forth in Section 4.2 below (said date shall hereinafter be referred to as the "Contingency Date"). In the event that any Contingency is not satisfied or waived by Lessee, Lessee shall give written notice thereof to Lessor on or prior to the Contingency Date and this Lease shall thereupon terminate on the date next following the date of such notice. In the event this Lease shall be terminated as aforesaid, both parties shall be fully released from all further liability and obligation hereunder. In the event no such notice of termination is given on a timely basis, this Lease shall continue in accordance with its terms.

4.2 Contingencies. The Contingencies are as follows:

- (a) Lessee shall have satisfied itself, in its sole and absolute discretion, that the Land is feasible in all respects for development for Lessee's Intended Purpose. For purposes hereof, Lessee's Intended Purpose shall mean the construction, development and operation of a prototype YMCA community recreation center, ~~as the same are;~~ the parties acknowledge that (i) the design of prototype YMCA community recreation centers, and the programs operated therefrom, may evolve from time to time throughout the Term hereof and (ii) the community recreation center so constructed, developed and operated by Lessee on the Land may change at any time, and from time to time, during the Term hereof, as such prototypical YMCA community recreation centers which are developed and operated by Lessee in the Central Ohio area at any time during the Term hereof so evolve;
- (b) Lessee shall have obtained from the City of Gahanna, Ohio, the County of Franklin, Ohio, the State of Ohio or any other governmental entity having jurisdiction thereof, or shall have satisfied itself as to the availability of, any and all permits and approvals for the construction and operation of the Premises for Lessee's Intended Purpose (the "Project"), including, but not limited to, rezoning of the Premises to permit the Project, all on terms and conditions acceptable to Lessee;
- (c) Lessee shall have obtained written evidence satisfactory to Lessee as to (i) availability of adequate utilities, including sanitary and storm sewers, water, electric, cable, natural gas and telephone, in sufficient capacities to service the Initial Project; (ii) satisfactory drainage location; (iii) satisfactory location of all easements; and (iv) satisfactory soil conditions which permit construction on the Land without substantial corrective measures;
- (d) Lessee shall have obtained a Phase I Environmental Assessment and wetlands report pertaining to the Land, the results of which shall be wholly satisfactory to Lessee, in its sole and absolute discretion; and
- (e) Lessee shall have obtained sufficient funds, as determined by Lessee, in its sole and absolute discretion, either through fund-raising, financing or a combination thereof, to pay all hard and soft costs associated with the ownership, construction, development and operation of the Project, on terms and conditions satisfactory to Lessee, in its sole and absolute discretion.

The Contingency Date shall be a date one hundred eighty (180) days after the Commencement Date.

4.3 Good Faith Efforts. Lessee agrees that it shall use good faith efforts to satisfy its Contingencies and Lessor agrees that it shall cooperate with Lessee in the satisfaction thereof; provided, however, except for costs specifically identified herein, Lessor shall not be obligated to incur costs or fees to comply with its obligation to cooperate with Lessor in the satisfaction of the Contingencies.

ARTICLE V - EVIDENCE OF TITLE/SURVEY

5.1 Title Commitment. Within fifteen (15) days after the Commencement Date, Lessor ~~Lessee~~ shall, at its sole cost and expense, ~~deliver to Lessee~~ obtain a commitment from a title insurance company acceptable to Lessee, to issue an American Land Title Association form B Leasehold Owner's Title Insurance Policy, certified to at least the Commencement Date of this Lease, in the an amount of \$ acceptable to Lessee, free and clear of the standard pre-printed exceptions contained in Schedule B of said Commitment and Policy, and free and clear of all liens, charges, encumbrances and clouds on title, whatsoever, except the following:

- (a) Those created or assumed by Lessee;
- (b) Zoning ordinances, legal highways and public rights-of-way which do not interfere with Lessee's proposed development and operation of the Land for Lessee's Initial Intended Purpose;

{ H 0 0 0 7 8 4 0 . 3 }

- (c) Real Estate taxes which are a lien on the Land but which are not yet due and payable; and
- (d) Easements and restrictions of record acceptable to Lessee which do not unreasonably interfere with the Lessee's proposed development and operation of the Land for Lessee's Initial Intended Purpose.

Lessee shall deliver a copy of such title insurance commitment to Lessor promptly after obtaining the same from the title company.

Should the legal description of the Land include more than one parcel, the title commitment shall state affirmatively that all parcels of land are contiguous. Said title commitment shall further state that the Land abuts and has direct access to dedicated legal highways. The title commitment shall fully and completely disclose all easements, negative or affirmative, rights-of-way, or any other appurtenances to the Land, and shall provide insurance coverage in respect to all of such appurtenant rights. The title commitment shall include the results of a special tax search and examination for any financing statements filed of record which may affect the Land.

5.2 **Endorsement at Closing.** On a date ten (10) days after the Contingency Date, if this Lease shall not have been terminated, and on the date of closing of Lessee's initial construction financing, ~~Lessor shall provide~~ Lessee with **shall obtain** endorsements to said title commitment updating said commitment to the respective date and showing no change in the state of the title to the Land. Promptly thereafter, a final owner's title insurance policy shall be issued ~~in the amount of \$ _____ to Lessee.~~ Lessor and Lessee agree that the entire cost of all commitments, **endorsements and policies** provided in accordance with the terms of this Lease, and all costs of any title examinations made for such purposes, shall be paid for by Lessor. ~~All costs of final title policies and endorsements thereto, however, shall be borne by Lessee.~~

5.3 **Survey.** Within thirty (30) days following the Commencement Date, Lessor ~~Lessee~~ shall, at its sole cost and expense, ~~deliver to Lessee~~ **obtain** an ALTA survey of the Land, and appurtenant easements thereto, prepared by a surveyor registered in the State of Ohio. **Lessee shall deliver a copy of the survey to Lessor promptly upon receipt thereof.** Said survey shall include a legal description of each parcel of the Land and, subject to approval by the title insurance company and Lessee, (a) shall be used in the title insurance commitment and policy, (b) shall be and become a part hereof, in lieu of Exhibit A, as attached hereto on the date of execution hereof and (c) shall be used in all documents to be executed hereunder wherein the legal description should appear and is required for the consummation of the transaction contemplated hereby. Said survey shall be acceptable to Lessee, shall be sufficient in form and substance to induce the title insurance company to waive or insure over any and all questions of survey, and shall show:

- (a) The Land is not subject to any discrepancies, conflicts in boundaries, shortages in area nor subject to any encroachments of any kind and nature;
- (b) The total square footage or total acreage of the Land, all perimeter lines, all bodies of water upon, adjacent to or flowing through the Land, all easements and rights-of-way (whether underground, surface or other and whether recorded or observable by physical inspection) for access, travel, transmission of energy or for drainage purposes, all party or curtain walls, or any other purpose or use to which the Land may be used or is subservient to or benefited by;
- (c) The location of all improvements upon the Land, including any buildings, signs, parking areas and/or power lines;
- (d) All roads or highways abutting the Land and/or providing access to same, irrespective of whether such access is provided by dedicated highways which are adjacent to the perimeter boundaries of the Land; and
- (e) That the Land is not located in any "flood plain" or "flood-way", as designated by any governmental agency having jurisdiction over the Land.

5.4 **Defects.** In the event that an examination of either the title insurance commitment (including any endorsements thereto) or the survey furnished hereunder discloses any matter adversely affecting title to the Land, or if title to the Land is not marketable, or if the Land is subject to liens, encumbrances, easements, conditions, restrictions, reservations or other matters not specifically excepted by the terms of this Lease, or in the event of any encroachment or other defect shown by said survey, Lessor shall have a reasonable time, not to exceed thirty (30) days after written notice thereof, within which to cure or remove any such defect, lien, encumbrance, easement, condition, restriction, reservation or encroachment or other defect. In the event Lessor is unable to cure or remove said defect or defects within said thirty (30) day period, Lessor shall forthwith give notice of Lessor's inability to Lessee and thereafter, Lessee shall have ten (10) days after receipt of such notice within which to make its election either:

- (a) To accept title to the Land subject to such defect or encumbrance and to continue to lease the Land hereunder; or
- (b) To withdraw from this transaction and terminate this Lease, in which event neither party shall thereafter have liability hereunder to the other.

Lessor shall execute and deliver to Lessee and the title insurance company an affidavit regarding all off-record title matters in accordance with community custom and in form sufficient to induce the issuance of the title policy without the standard pre-printed exceptions.

ARTICLE VI - USE OF PREMISES; CONSTRUCTION

6.1 Use. For so long as Lessee is the holder of the leasehold interest created hereby, Lessee shall use the Land for Lessee's Intended Purpose and for no other purpose without the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. In the event the leasehold interest created hereby is assigned to, or otherwise becomes the property of, any third party, the Land shall be used for a community recreation center and for no other purpose without the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Except as otherwise expressly set forth in this Lease, Lessee shall have the full right to operate its business on the Premises without interference or restriction by Lessor or anyone claiming by, through or under Lessor. All decisions with respect to operating and staffing the Premises shall be made solely by Lessee.

Lessee covenants and agrees: (a) to use the Premises in a safe, careful and lawful manner in accordance with all present or future laws, regulations, ordinances, rules or requirements of federal, state or applicable local governments; (b) to pay for any repairs to the Premises and the Building as hereinafter set forth in Article XI; (c) to permit Lessor and its employees and agents access to the Premises for inspection purposes at all reasonable times during business hours, subject to safety regulations and at Lessor's sole risk; (d) to pay the cost of all remodeling, redecorating, painting, alterations or additions required of or by Lessee during the term of this Lease; (e) to make all billing arrangements directly with the appropriate utility companies for the supply of gas, electricity, water, light, power and telephone to the Premises; and (f) to operate a YMCA community center generally in accordance with practices established by Lessee from time to time at other suburban YMCA facilities owned and/or operated by Lessee.

6.2 Construction. After the Contingency Date, if this Lease is not terminated, Lessee shall construct on the Land a prototype YMCA community recreation facility center, as generally described on Exhibit C, attached hereto and made a part hereof ("Lessee's Improvements"), and Lessor shall perform, or cause to be performed, the items identified on Exhibit D hereto as Lessor's Improvements. Within () days after the satisfaction and/or waiver by Lessee of the Contingencies set forth in Article IV hereof, Lessor shall commence and diligently prosecute to completion Lessor's Improvements. Lessor acknowledges and agrees that such construction, or portions hereof, may be performed coincidentally with the construction of Lessee's Improvements and that Lessor shall perform such construction at such times, in such manner and with such contractors as Lessee shall direct.

In addition to the performance of Lessor's Improvements,

Lessor shall reimburse Lessee for all hard and soft site development costs associated with development of the Project and which are attributable to or situated outside a boundary which runs five (5) feet outside the foundations of the Building, up to a maximum amount of Six Hundred Twenty-five Thousand Dollars (\$625,000.00) (the "Lessor Contribution"). All other costs of constructing and developing the Project for which Lessor is not expressly responsible hereunder shall be borne by Lessee. Lessor shall pay to Lessee the initial Lessor Contribution in three separate installments of Two Hundred Eight Thousand Three Hundred Thirty-three Dollars (\$208,333.00) (the "Initial Installment") of the Lessor Contribution, the first of which shall be due on or before November 15, 2002, for application to site development costs thereafter incurred by Lessee. As Lessee incurs site development costs in excess of the Initial Installment, it shall submit to Lessor a draw request for such costs, together with reasonable evidence of the amount thereof, and Lessor shall pay to Lessee such amount within ten (10) days after submission of such draw request, until the entire Lessor Contribution has been paid to Lessee. All amounts payable by Lessor to Lessee under any of the provisions of this Lease, if not paid when the same becomes due as in this Lease provided, shall bear interest from the date they become due until paid, at a rate equal to the prime rate, or its equivalent designation, then and from time to time thereafter prevailing at Bank One, NA, plus two percent (2%) per annum with the subsequent installments being due on November 15, 2003 and November 15, 2004. * Provided, however, that said

All such construction shall be performed by Lessor and Lessee in a good and workmanlike manner and shall be in full compliance with (or in compliance with variances from) all construction, use, building, zoning, health, environmental and other similar requirements of any governmental entity having jurisdiction thereof.

6.3 Ownership of Buildings and Improvements. Lessee shall, at all times during the term of this Lease, have title to any buildings and other improvements constructed by Lessee on the Land. Lessee shall have the absolute right at any time and from time to time during the Term hereof, to alter,

{ H 0 0 0 7 8 4 0 . 3 }

raised by the YMCA which make these payment unnecessary

modify, raze and/or remove any such buildings and/or improvements so constructed by it on the Land, but, upon the expiration of the Term of this Lease, or upon earlier termination for any of the reasons herein provided, Lessee will execute and deliver to Lessor such instrument of conveyance of title to any building and/or improvements as may then exist on the Land, all as Lessor may reasonably request.

6.4 Protection of Lessor's Title in the Land. Lessee shall not suffer or permit the Land, or any portion thereof, to be used by the public, without restriction or in such manner as might reasonably tend to impair or otherwise cloud or encumber Lessor's title to the Land, or any portion thereof, or to be so used in such manner as may reasonably provide a basis for a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises, or any portion thereof.

6.5 Use Prohibited. No use shall be made or permitted to be made of the Premises which will cause a violation of any present or future law, regulation, ordinance, rule and/or requirement of the federal, state, county or city governments, or any department, bureau, board, commission and/or officials thereof with respect to the Premises.

6.6 Waste and Nuisance Prohibited. Lessee shall comply with all applicable laws affecting the Premises, the breach of which might result in any penalty on Lessor or forfeiture of Lessor's title to the Premises. Lessee shall not commit, or suffer to be permitted, waste, nor allow any nuisance or illegal act to occur upon the Premises.

6.7 Redelivery of Land. Lessee shall pay the Rent and all other sums required to be paid by Lessee hereunder, in the amounts, at the times and in the manner herein provided, and shall keep and perform all the terms and conditions hereof on its part to be kept and performed and, at the expiration or sooner termination of this Lease, peaceably and quietly quit and surrender to Lessor the Premises in good order and condition, subject to the other provisions of this Lease. In the event of the nonperformance by Lessee of any of the covenants of Lessee undertaken herein, this Lease may, subject to Lender's rights, be terminated as herein provided.

ARTICLE VII - ENCUMBRANCE OF LEASEHOLD INTEREST

7.1 Financing.

- (a) Lessee shall have the right at any time and from time to time during the Term of this Lease to sell, assign, sublease, mortgage or otherwise transfer or encumber its leasehold interest, together with all improvements constructed thereon, pursuant to a mortgage, deed of trust, sublease, indenture, commercial facilities agreement or such other related and customary instruments necessary or desirable to facilitate any lawful financing (which instruments are referred to collectively in this Lease as the "Financing Documents"). The institutions or entities (including any trustee(s) for such institutions or entities) providing any such financing and holding any Financing Documents are collectively referred to in this Lease as "Lender."
- (b) Lessor acknowledges that Lessee may grant any such Lender the right at any time during the term of this Lease (i) to enter upon the Premises and to do any act or thing required of Lessee hereunder, and all such acts or things so done and performed shall be as effective to prevent a forfeiture of Lessee's rights hereunder as if done by the Lessee; and (ii) to realize on the security afforded by the leasehold estate by exercising foreclosure proceedings or other remedies afforded at law or in equity or by the Financing Documents (hereinafter collectively referred to as the "Foreclosure Remedies") and to transfer, convey or assign the title of Lessee to the leasehold estate created hereby to any purchaser pursuant to any Foreclosure Remedies, and to acquire and succeed to the interest of Lessee hereunder by virtue of any Foreclosure Remedies.
- (c) Notwithstanding anything to the contrary provided for in this Lease, if Lessee fails to cure any default within the time prescribed by this Lease, further notice to that effect shall be given by Lessor to Lender, and the Lender shall be allowed such additional time as may be required, within which to cure the default, as set forth in Section 7.2(b) or, at the Lender's option, to institute foreclosure proceedings upon the leasehold estate created by this Lease and all improvements constructed thereon, as set forth in Section 7.2(c). So long as the Lender shall be engaged either in curing the default within the time period herein provided or in proceeding with the Foreclosure Remedies, no default hereunder shall operate or permit Lessor to terminate this Lease, and upon completion of such Foreclosure Remedies, Lessor will recognize the purchaser at foreclosure (or, the purchaser at a sale in lieu of foreclosure) as the Lessee hereunder, subject to all of the terms and conditions herein contained. No such Lender shall be liable to the Lessor as an assignee of this Lease unless and until such time as such Lender shall acquire the rights of Lessee hereunder through foreclosure or other appropriate proceedings provided for in the Financing Documents, or as a result of any other action or remedy provided for by such Financing Documents, or which may otherwise be provided by law.

7.2 Rights of Lender.

- (a) Lessor will accept performance by the Lender of any or all of the agreements and obligations on Lessee's part to be performed under this Lease with the same force and effect as if performed by Lessee. Notwithstanding any provision to the contrary in Article XV, the rights of Lessor upon an Event of Default under this Lease may not be exercised unless and until Lessor provides written notice of the Event of Default to the Lender, and an opportunity to cure same in accordance with subparagraph (b) below, or alternatively, to pursue Foreclosure Remedies in accordance with subsection (c) below.
- (b) It is agreed that Lender shall have the right to cure any Event of Default under this Lease within thirty (30) days after receipt of notice from Lessor with respect to any Event of Default that can be cured by the payment of money, or within ninety (90) days after receipt of notice from Lessor with respect to any other covenant or condition or term of this Lease after written notice thereof is provided; and, if the Event of Default is of such nature that it cannot be reasonably remedied within said time, then Lender shall have such additional time as is reasonably necessary to cure such Event of Default, provided that it commences the curing of same within said ninety (90) day period, and thereafter diligently continues the curing of same, or alternatively, institutes foreclosure proceedings within ninety (90) days after receipt of the aforesaid notice. So long as all other defaults have been or are being cured within the time limits prescribed herein, any Event of Default which is not by its nature susceptible of being cured by Lender shall be deemed waived by Lessor.
- (c) The Lender shall have the right to realize on the security afforded by the Financing Documents by exercising Foreclosure Remedies, including the right to transfer, convey or assign any interest thereby secured to any purchaser at foreclosure, or to a purchaser at a sale in lieu of foreclosure, and to acquire and succeed to the interest of Lessee hereunder by virtue of such Foreclosure Remedies. Any exercise by Lender of its rights with respect to Foreclosure Remedies must be instituted by Lender within ninety (90) days after notice to Lender of an Event of Default which Lessee has failed to cure.

7.3 New Lease with Lender. In the event that any Lender or other person acquires the leasehold estate hereby granted pursuant to Foreclosure Remedies or assignment in lieu of foreclosure, or in the event of the rejection or other avoidance of the Lease by the Lessee pursuant to the Federal Bankruptcy Code or other similar law or other dissolution of the Lessee, and such Lender or other persons so request by written notice to Lessor within ninety (90) days after such event, Lessor (a) shall enter into a new Lease of the Premises with such Lender or its designee within thirty (30) days after receipt of such request, which new Lease shall be effective as of the date of such acquisition for the remainder of the Term of this Lease, at the same rent and upon the same terms, covenants, conditions and agreements as are herein contained including ownership by such Lender or other person of any buildings or other improvements, and (b) shall further assign by quitclaim assignment all of Lessor's rights in any underlying subleases. Notwithstanding any provision in this Section to the contrary, Lessor shall have no obligation under this Section unless, contemporaneously with the execution of the new Lease and quitclaim assignment, or at such earlier time as required by the time restrictions imposed upon Lender to cure monetary defaults of the Lessee in Section 7.2, such Lender or other person shall pay to Lessor all Rent and other sums which are then owing and yet unpaid under this Lease. In no event shall Lender or any such purchaser be required to cure any default by Lessee hereunder which, by its nature, is not susceptible of cure.

7.4 Lender as Assignee. No Lender shall be liable to Lessor as an assignee of this Lease unless and until such time as such Lender shall acquire the rights of Lessee hereunder through exercise of the Foreclosure Remedies or other appropriate proceedings in the nature thereof, or in lieu thereof, or as a result of any other action or remedy provided for by the Financing Documents or which may otherwise be provided by law. If the Lender subsequently assigns this Lease, the Lender shall not be liable for the obligations of the Lessee accruing after the date of such assignment.

7.5 Compliance with Financing Documents. Lessee (a) shall not do or permit to be done anything which could constitute a breach or default under any of the Financing Documents; and (b) shall at all times and in all respects fully, timely and faithfully comply with and observe each and all of the conditions, covenants, agreements and provisions on the part of the mortgagor or obligor under the Financing Documents, including all conditions, covenants, agreements and provisions thereof which relate to the care, maintenance, operation, repair, insurance, restoration and preservation of the Premises, notwithstanding that such conditions, covenants, agreements and provisions may require compliance and observance to a standard or degree in excess of that required by the provisions of this Lease, or within a shorter time limit required by the provisions of this Lease, or may require performance not required by the provisions of this Lease.

7.6 Amendment Upon Request of Lender. In the event that any Lender requests a reasonable amendment or modification of the provisions of this Lease in conjunction with the construction financing, permanent financing or refinancing of the Project, then Lessor and Lessee shall proceed expeditiously to effectuate such amendment or modification unless either party determines in good faith that such amendment or modification would be materially detrimental to such party's position under this Lease.

ARTICLE VIII - LIENS

{ H 0 0 0 7 8 4 0 . 3 }

8.1 Lessee's Duty to Keep Premises Free of Liens. Lessee shall keep the Premises, and every part thereof, free and clear of any and all judgments, mechanics', materialmen's and other liens for or arising out of or in connection with work or construction, by, for or permitted by Lessee on or about the Premises, or from any obligation of any kind incurred by Lessee, except the obligations or liens created or evidenced by any Financing Documents referred to in Article VII hereof, and Lessee shall, at all times, promptly and fully pay and discharge any and all judgments or claims on which any such lien may or could be based, and shall indemnify Lessor against all such liens, claims and suits or other proceedings pertaining thereto (including reasonable attorneys' fees and expenses).

Notwithstanding anything contained herein to the contrary, Lessee shall not be required to pay or discharge any such liens so long as Lessee shall in good faith proceed to contest the same by appropriate proceedings; provided, however, that Lessee shall give notice in writing to Lessor of its intention to contest the same and shall furnish a surety bond of a company satisfactory to Lessor or other security in any amount sufficient to pay such contested lien claim with all interest thereon and costs and expenses, including reasonable attorneys' fees, to be incurred in connection therewith; provided, however, that if Lessor shall notify Lessee that, in the opinion of Lessor's legal counsel, by nonpayment of any such lien claimed, Lessor's fee interest in the land or reversionary interest in the Premises will be imminently subject to loss or forfeiture, such lien claimed shall be promptly paid by Lessee.

ARTICLE IX - TAXES AND ASSESSMENTS

9.1 Taxes and Additional Rental. As additional Rent hereunder, Lessee shall, from and after the Rental Commencement Date, pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens or claims, levies, excises or imposts, whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every name, nature and kind whatsoever, including all governmental charges of whatsoever name, nature or kind which may be levied, assessed, charged or imposed or which may become a lien or charge on or against the Land hereby demised, or any part thereof, any building or any other improvements now or hereafter erected thereon, or any part thereof, or any other part or portion of the Land described herein, or the leasehold of Lessee herein, or on or against Lessee's or Lessor's estate hereby created which may be a subject of taxation and be due and payable during the Term hereof. Lessee's obligation to pay such taxes and other obligations shall not commence, however, until Lessor shall have caused the Land to be taxed as a separate and distinct tax parcel. Until such time, Lessor shall pay all such taxes and shall indemnify and hold Lessee harmless from any loss, cost (including attorneys' fees) and damage resulting from Lessor's failure so to do.

9.2 Assessments Affecting Improvements. Specifically and without in any way limiting the generality of Section 9.1 hereof, Lessee shall pay all special assessments and levies or charges made by any municipal or political subdivision for local improvements, and shall pay the same in cash as they shall fall due and before they shall become delinquent, and as required by the act and proceedings under which any such assessments or levies or charges are made by any municipal or political subdivision. If the right is given to pay any of the foregoing in one sum or in installments, Lessee may elect either mode of payment, and its election shall be binding upon Lessor. If, by making any such election to pay in installments, any of such installments shall be payable after the expiration or termination of this lease, such unpaid installments shall be prorated after such date and shall be paid by Lessor.

9.3 Contesting Taxes. If Lessee shall, in good faith, desire to contest the validity or amount of any tax, assessment, levy or other governmental charge herein agreed to be paid by Lessee, Lessee shall be permitted to do so, and to defer payment of such tax or charge, the validity or amount of which Lessee is so contesting, until final determination of the contest, on giving to Lessor written notice thereof prior to the commencement of any such contest, which shall be at least ten (10) days prior to delinquency, and on indemnifying Lessor on demand against any such tax, levy, assessment, rate or governmental charge and from any costs, liability or damage arising out of any such contest; provided, however, that if Lessor shall notify Lessee that, in the opinion of Lessor's legal counsel, by nonpayment of any such tax, levy, assessment, rate or governmental charge, Lessor's fee interest in the Premises will be imminently subject to loss or forfeiture, such tax, levy, assessment, rate of governmental charge shall be promptly paid by Lessee.

9.4 Disposition of Rebates. All rebates on account of any such taxes, rates, levies, charges or assessments required to be paid and paid by Lessee under the provisions hereof, shall belong to Lessee, and Lessor will, on the request of Lessee, execute any receipts, assignments or other acquittances that may be necessary in order to secure the recovery of any such rebates, and will pay over to Lessee any such rebates that may be received by Lessor.

9.5 Receipts. Upon request from Lessor, Lessee shall obtain and deliver to Lessor receipts or duplicate receipts for all taxes, assessments and other items affecting the Premises and required hereunder to be paid by Lessee, not later than thirty (30) calendar days after the date when any tax, assessment or other charge would become delinquent.

9.6 Tax Exempt Status. Notwithstanding the foregoing, Lessor and Lessee acknowledge that it is their intent and expectation that the Premises shall be exempt from the payment of real

{ H 0 0 0 7 8 4 0 . 3 }

estate taxes and assessments and that each shall, at their own respective cost and expense, take such actions as shall be required for the Premises to attempt to attain and maintain such tax-exempt status.

ARTICLE X - INSURANCE

10.1 Fire and Extended Coverage Insurance. Lessee shall, at Lessee's sole expense, keep any building and other improvements on the Land insured in an amount not less than one hundred percent (100%) of the then full replacement cost of the building (full replacement cost being the cost of replacing the building inclusive of costs of excavation, foundations, footings, pavings and underground utility systems) and in an amount sufficient to prevent Lessor or Lessee from becoming a co-insurer under the terms of applicable policies, against the risks included within the term "all risks," as used in insurance policies for commercial structures from time to time issued by reputable insurance companies authorized to do business in the State of Ohio. Such replacement costs shall be determined at least once every year by Lessee's insurance broker or insurance carrier or by Lessee.

10.2 Other Insurance to be Carried. Lessee shall, also at Lessee's sole expense but for the mutual benefit of Lessor and Lessee (naming Lessor as an additional insured), procure and maintain during the entire term of this Lease the following insurance:

- (a) Comprehensive general liability insurance against claims for personal injury, death or property damage occurring on or about the Land, or in or about the Building, and to provide coverage, if applicable, for premises/operations, elevators and damages and injuries caused by independent contractors, such insurance to afford protection in the all-inclusive amount of insurance of at least Two Million Dollars (\$2,000,000.00). Lessor may require that the foregoing amount be increased to such amount as the Lessor may from time to time reasonably require, consistent with limits then commonly written for properties having comparable use and value;
- (b) Boiler and pressure vessel insurance, provided the Building contains a boiler or other pressure vessel.
- (c) Worker's Compensation Insurance for all employees of Lessee.

All insurance referred to in Section 10.2 shall be endorsed to provide for cancellation only upon thirty (30) days' prior written notice to Lessor.

10.3 Insurance Certificates. Lessee will provide Lessor with certificates of insurance or other adequate proof regarding the insurance required to be carried pursuant to this Article X.

10.4 Lessor's Right to Obtain Insurance. In the event Lessee fails to obtain the insurance coverage required by Section 10.2 and fails to deliver evidence thereof to Lessor at least five business days prior to the date existing coverage is due to expire, Lessor shall have the right (but not the obligation) to obtain the same, in which event the cost thereof, together with interest thereon, shall become an obligation of Lessee, in the manner and as set forth in Section 15.4 hereof.

ARTICLE XI - REPAIRS AND MAINTENANCE OF IMPROVEMENTS

11.1 Maintenance of Improvements. Lessee shall, throughout the Term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain any building and all improvements located on the Premises in good, sanitary and neat order, condition and repair, and free from ice and snow and, except as specifically provided herein, shall restore and rehabilitate any improvements of any kind which may be destroyed or damaged by fire, casualty or any other cause whatsoever, reasonable wear and tear excepted. The foregoing shall not be in derogation of any right, however, of Lessee to alter, modify, raze, remove and/or demolish any building or other improvement now or hereafter erected on the Land. Lessor shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to any building, or any improvements which may be a part thereof, except as specifically provided herein.

11.2 Repair of Improvements After Damage. In the event of damage by fire or other casualty to any building or other improvements located on the Premises, Lessee shall, as soon as is reasonably possible, but in no event later than twelve (12) months after the happening of such event or such later date as is thirty (30) days after insurance proceeds are paid to Lessee, at Lessee's sole expense, commence and diligently thereafter proceed to either (a) repair and restore the same as completely as possible to at least the condition and to at least the equivalent economic value as they were in immediately prior to such damage, or (b) raze and remove such damaged building or improvements from the Land. Lessee shall have the sole right and authority to adjust with the insurance company losses under the fire and extended coverage insurance and to receive the proceeds thereof, subject to the provisions of any Financing Documents.

Subject to any loss endorsements in favor of Lender, and subject to the rights (if any) of Lender to apply the proceeds of any insurance loss(es) toward the payment of the indebtedness and interest
{ H 0 0 0 7 8 4 0 . 3 }

secured or evidenced by the Financing Documents, and subject to the rights of the Lender to receive the proceeds in the first instance in order to have such proceeds used for restoring, rebuilding and repairing, it is agreed that the proceeds of any insurance covering such damage or destruction shall be the property of Lessee.

11.3 Damage or Destruction Occurring Toward the End of Term. Anything to the contrary in the immediately preceding paragraphs of this Section notwithstanding, in case of destruction of any building or other improvement on the Land, from any cause so as to make it partially or completely untenable, and in the event the cost of repair exceeds fifty percent (50%) of the replacement cost of any building or other improvement, Lessee, if not then in default hereunder, may elect to terminate this Lease by written notice served on Lessor within ninety (90) days after the occurrence of such damage or destruction. In the event of such termination, there shall be no obligation on the part of Lessee to repair or restore the Building or improvements, and insurance proceeds shall be allocated as follows:

- (a) First, if any Lender has loaned money to Lessee, which loan is secured by the Land or Lessee's interest in the Premises, then to such Lender (or Lessee with the consent of such Lender) for the amount then required to pay such loan in full, and, if there are more insurance proceeds;
- (b) Second, to Lessor, in an amount sufficient to raze and remove from the Land any damaged improvements; and
- (c) Finally, the balance to Lessor.

On such termination, rent, taxes, assessments and any other sums payable by Lessee hereunder shall be prorated as of the termination date, and in the event any rent, taxes or assessments shall have been paid in advance, Lessor shall rebate the same for the unexpired period for which payment shall have been made.

ARTICLE XII - CONDEMNATION

12.1 Condemnation. If, during the term of this Lease, there shall be taken or condemned ("Taking") for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, the Land, any improvements thereon or any part thereof, the rights and obligations of Lessor and Lessee with respect to any condemnation award or consideration for any such transfer (such award or consideration being herein called "condemnation award") pursuant thereto and with respect to the Premises shall be as hereinafter set forth:

- (a) In the event of a Taking of the Land and all improvements thereon, or so much thereof that, in the opinion of Lessee, it is not economically feasible to continue to operate the same, or such part thereof as is not delivered to the condemning authority, this Lease shall terminate twenty (20) days after notice from Lessee to Lessor of such election to terminate, and Lessee shall, upon Lessor's request, if made within thirty (30) days after notice, demolish all buildings on any part of the Premises not subject to the Taking, and Lessee shall restore the Land to its condition prior to this Lease or to such other condition as is reasonably acceptable to Lessor. The condemnation award attributed to the Premises shall be divided and paid as follows:
 - (i) First, if any Lender has loaned money, which loan is secured by the Land or Lessee's interest in the Premises, then to such Lender on Lessee's behalf for the amount then required to pay such loan in full; and if there is more condemnation award;
 - (ii) Next, to Lessee in the amount of cost incurred to demolish and restore as required of Lessee above, and if there is more condemnation award;
 - (iii) Next, to Lessor in an amount equal to the "fair market value" (determined by mutual agreement of the parties or, if agreement cannot be reached, by a determination thereof by an appraiser appointed by the Court of Common Pleas of Franklin County, Ohio) of the Land only, as of the date of Taking, assuming that there were no improvements thereon, and if there is more condemnation award;
 - (iv) Finally, the balance to Lessee.
- (b) In the event of a Taking of a part of the Premises and Lessee does not give notice as provided for in paragraph (a) of this Section 12.1 that it is not economically feasible to continue the same use or uses, this Lease shall continue. The condemnation award attributed to the Premises shall be allocated and paid in the following sequence:
 - (i) For any loan that is secured by the Premises or Lessee's interest in the Premises, if the loan agreement requires that the condemnation award be paid to

{ H 0 0 0 7 8 4 0 . 3 }

secured or evidenced by the Financing Documents, and subject to the rights of the Lender to receive the proceeds in the first instance in order to have such proceeds used for restoring, rebuilding and repairing, it is agreed that the proceeds of any insurance covering such damage or destruction shall be the property of Lessee.

11.3 Damage or Destruction Occurring Toward the End of Term. Anything to the contrary in the immediately preceding paragraphs of this Section notwithstanding, in case of destruction of any building or other improvement on the Land, from any cause so as to make it partially or completely untenable, and in the event the cost of repair exceeds fifty percent (50%) of the replacement cost of any building or other improvement, Lessee, if not then in default hereunder, may elect to terminate this Lease by written notice served on Lessor within ninety (90) days after the occurrence of such damage or destruction. In the event of such termination, there shall be no obligation on the part of Lessee to repair or restore the Building or improvements, and insurance proceeds shall be allocated as follows:

- (a) First, if any Lender has loaned money to Lessee, which loan is secured by the Land or Lessee's interest in the Premises, then to such Lender (or Lessee with the consent of such Lender) for the amount then required to pay such loan in full, and, if there are more insurance proceeds;
- (b) Second, to Lessor, in an amount sufficient to raze and remove from the Land any damaged improvements; and
- (c) Finally, the balance to Lessor.

On such termination, rent, taxes, assessments and any other sums payable by Lessee hereunder shall be prorated as of the termination date, and in the event any rent, taxes or assessments shall have been paid in advance, Lessor shall rebate the same for the unexpired period for which payment shall have been made.

ARTICLE XII - CONDEMNATION

12.1 Condemnation. If, during the term of this Lease, there shall be taken or condemned ("Taking") for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, the Land, any improvements thereon or any part thereof, the rights and obligations of Lessor and Lessee with respect to any condemnation award or consideration for any such transfer (such award or consideration being herein called "condemnation award") pursuant thereto and with respect to the Premises shall be as hereinafter set forth:

- (a) In the event of a Taking of the Land and all improvements thereon, or so much thereof that, in the opinion of Lessee, it is not economically feasible to continue to operate the same, or such part thereof as is not delivered to the condemning authority, this Lease shall terminate twenty (20) days after notice from Lessee to Lessor of such election to terminate, and Lessee shall, upon Lessor's request, if made within thirty (30) days after notice, demolish all buildings on any part of the Premises not subject to the Taking, and Lessee shall restore the Land to its condition prior to this Lease or to such other condition as is reasonably acceptable to Lessor. The condemnation award attributed to the Premises shall be divided and paid as follows:
 - (i) First, if any Lender has loaned money, which loan is secured by the Land or Lessee's interest in the Premises, then to such Lender on Lessee's behalf for the amount then required to pay such loan in full; and if there is more condemnation award;
 - (ii) Next, to Lessee in the amount of cost incurred to demolish and restore as required of Lessee above, and if there is more condemnation award;
 - (iii) Next, to Lessor in an amount equal to the "fair market value" (determined by mutual agreement of the parties or, if agreement cannot be reached, by a determination thereof by an appraiser appointed by the Court of Common Pleas of Franklin County, Ohio) of the Land only, as of the date of Taking, assuming that there were no improvements thereon, and if there is more condemnation award;
 - (iv) Finally, the balance to Lessee.
- (b) In the event of a Taking of a part of the Premises and Lessee does not give notice as provided for in paragraph (a) of this Section 12.1 that it is not economically feasible to continue the same use or uses, this Lease shall continue. The condemnation award attributed to the Premises shall be allocated and paid in the following sequence:
 - (i) For any loan that is secured by the Premises or Lessee's interest in the Premises, if the loan agreement requires that the condemnation award be paid to

{ H 0 0 0 7 8 4 0 . 3 }

the Lender, then first to such Lender on Lessee's behalf in the amount required by the loan agreement, and if there is more condemnation award;

- (ii) Next, to Lessor in an amount equal to the fair market value (determined as set forth in Section 16.1(b) hereof) of the Land only taken as of the date of Taking, assuming that there were no improvements thereon, and if there is more condemnation award; and
 - (iii) Finally, the balance to Lessee.
- (c) In the event a portion of the Land and improvements is taken and this Lease continues thereafter, (i) the rental payable hereunder shall be proportionately reduced based upon the reduction in acreage comprising the Land, and (ii) Lessee, at its expense, shall perform any reconstruction of the remaining Premises as may be necessary to restore the same to an architectural and usable whole and as may be required pursuant to any sublease of any part of the Land, or shall raze and remove any such damaged improvement from the Land.

12.2 Notice of Condemnation. The party receiving any notice of the kinds specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

- (a) Notice from any governmental entity or agency of any intended taking of all or any part of the Premises by power of condemnation;
- (b) Service of any legal process relating to condemnation of all or any part of the Premises;
- (c) Notice in connection with any proceedings or negotiations with respect to such a condemnation; or
- (d) Notice of intent or willingness to make or negotiate a private purchase, sale or transfer in lieu of condemnation.

Lessee shall have full right and authority, together with Lessor and any Lender, to conduct, or to direct the conduct of any such condemnation or settlement proceeding and to settle the same on terms reasonably acceptable to Lessee and Lessor.

ARTICLE XIII - SALE, ASSIGNMENT AND SUBLETTING

13.1 Assignment or Subletting. Lessee shall not assign this Lease or sublet the Premises, in whole or in part, without the consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, however, Lessee may sublet a portion of the Building to Ohio State University Hospital Medical Center for the operation of a wellness center without having to obtain the consent of Lessor. Upon consummation of any permitted assignment or subletting there shall be delivered to Lessor:

- (a) A duplicate original of the instrument or instruments of transfer of this lease in recordable form, containing the name and address of the transferee or sublessee thereof; and
- (b) An instrument of assumption or sublease by said transferee or sublessee of all of Lessee's obligations under this Lease, including acknowledgment of and agreement to the Lessor's rights herein.

Notwithstanding the foregoing, however, the assignment of this Lease pursuant to the foregoing shall not release the assigning Lessee from liability hereunder unless Lessor shall have determined, in its reasonable judgment, that the assignee hereof is of sufficient financial strength to assume and undertake the obligations of Lessee hereunder. For purposes hereof, an assignee's financial strength shall be deemed to be sufficient to assume and undertake the obligations of Lessee hereunder, and the assigning Lessee shall automatically be released from further liability hereunder, if said assignee has a net worth on the date of such assignment equal to fifty percent (50%) of the then principal balance and accrued interest secured by any leasehold mortgage granted pursuant to Article VII hereof, or if the general partners of said assignee shall have, in the aggregate, such a net worth.

13.2 Rights of Subtenants. Lessor confirms and agrees, for the benefit of any subtenants, that upon the termination of this Lease pursuant to any of the provisions of this Lease, Lessor will recognize the subtenants under such subleases as the direct tenant of Lessor for the balance of the term of such subleases, provided that at the time of the termination of this Lease:

- (a) No default exists under such subtenants' subleases at the time of the termination of this Lease which would then permit the landlord thereunder to terminate the same or to exercise any dispossession remedy provided for therein; and

- (b) Such subtenants shall, with reasonable promptness after the termination of this Lease, deliver to Lessor an instrument confirming the agreement of such subtenant to attorn to Lessor and to recognize Lessor as the subtenant's landlord under its sublease.

ARTICLE XIV - QUIET POSSESSION

14.1 Title and Quiet Possession. Lessor covenants that Lessor is seized of the Land, in fee simple, and has full right to make this Lease and that, as long as Lessee faithfully performs the agreements, terms, covenants and conditions of this Lease, Lessee shall have quiet and peaceable possession of the Land during the Term hereof. Lessor warrants that the Land is free and clear of all liens, encumbrances and restrictions except those permitted in Section 5.1(a) - (d) hereof, and Lessor further agrees that, except as herein provided, Lessor shall at no time permit any mortgage or other lien to hereafter encumber the Land or Lessor's interest herein, unless there is first executed and delivered to Lessee a Subordination, Non-Disturbance and Attornment Agreement reasonably acceptable to Lessee whereby such mortgage-holder agrees to recognize the interest of Lessee hereunder in the event of default by Lessor under such mortgage.

14.2 Opinion of Counsel. If required to consummate the closing of any financing permitted hereunder, there shall be delivered to Lessee the opinion of Lessor's counsel, in form and substance satisfactory to Lessee, stating that:

- (a) All requisite action of the Lessor has been taken authorizing the transaction contemplated hereby, and the party executing this Lease and all other documents required hereby is duly authorized by the Lessor to so act on behalf of Lessor;
- (b) This Lease is the legal, valid and binding obligation of Lessor; and
- (c) Such other matters as may be reasonably required by Lender.

ARTICLE XV -- DEFAULT

15.1 Default. Subject to the rights of Lender set forth herein, upon the occurrence of any event of default (herein individually referred to as an "Event of Default") under this Lease by Lessee, as described in Sections 15.2 and 15.3 hereof, Lessor, in addition to the other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Lessee.

Subject to the rights of Lender, upon the occurrence of an Event of Default, Lessor shall have the following rights: should Lessor elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Lessor may either terminate this Lease or it may, from time to time, without terminating this Lease, relet the Premises or any part thereof for such term or terms, which may be for a term extending beyond the Term of this Lease, and at such rental or rentals and on such other terms and conditions as Lessor, in the sole discretion of Lessor, may deem advisable, with the right to make alterations and repairs to the Premises. Upon each such reletting, Lessee shall be immediately liable to pay Lessor, in addition to any other indebtedness due hereunder, the cost and expense of such reletting and of such alterations and repairs incurred by Lessor, and the amount, if any, by which the Rent reserved in this Lease for the period of such reletting (up to but not beyond the Term of this Lease) exceeds the amount agreed to be paid for rent for the Premises for such period of such reletting. Should Lessor at any time terminate this Lease for any breach, in addition to any other remedy it may have, Lessor may recover from Lessee all damages incurred by reason of such breach, including the cost of recovering possession and/or title to the Premises, and including the value at the time of the termination of the excess, if any, of the amount and charges equivalent to the Rent reserved in this Lease for the remainder of the Lease Term over the then reasonable rental value of the Premises for the remainder of the Lease Term. Anything herein to the contrary notwithstanding, Lessor shall use its best efforts to mitigate all damages hereunder and any amounts at any time received which would operate to reduce Lessee's liability hereunder shall be so applied as to minimize each and every loss, cost and expense payable at any time by Lessee to Lessor hereunder.

15.2 Monetary Event of Default. An Event of Default by Lessee with respect to the payment of Rent or the payment of any other moneys as herein required or in the furnishing of any bond or insurance policy when required herein shall not be deemed to have occurred hereunder unless Lessor shall first give to Lessee fifteen (15) days written notice of such default and Lessee fails to cure such default within such fifteen (15) day period.

15.3 Nonmonetary Event of Default. An Event of Default by Lessee, except as to the provisions or events referred to in Section 15.2, shall not be deemed to have occurred hereunder unless Lessor shall first give to Lessee thirty (30) days written notice of such default, and Lessee fails to cure such default within such thirty (30) day period, or, if the default is of such a nature as to require more than thirty (30) days for such cure, Lessee fails to commence to cure such default within such period of thirty (30) days and/or fails thereafter to proceed in the curing of such default with all reasonable diligence. The foregoing shall specifically include a default by Lessee in operating the Premises for a community recreation center as herein required.

15.4 Lessor's Right to Perform. Upon the occurrence of an Event of Default, as defined in Sections 15.2 and 15.3 above, Lessor may, but shall not be required to, do or perform, or cause to be done or performed, such act or thing, entering on the Premises for such purposes, if Lessor shall elect, and Lessor shall not be held liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to Lessee on account thereof, and Lessee shall repay to Lessor, on demand, the entire expense thereof, including compensation to the agents and employees of Lessor. The foregoing shall specifically include a default by Lessee in maintaining insurance on the Premises as herein required. Any act or thing done by Lessor pursuant to the provisions of this Section shall not be construed as a waiver of any such default by Lessee, or as a waiver of any covenant, term or condition herein contained, or the performance thereof, or of any other right or remedy of Lessor, hereunder or otherwise. All amounts payable by Lessee to Lessor under any of the provisions of this Lease, if not paid when the same becomes due as in this Lease provided, shall bear interest from the date they become due until paid, at a rate equal to the prime rate, or its equivalent designation, then and from time to time thereafter prevailing at Bank One, NA, plus two percent (2%) per annum.

15.5 No Waiver. The waiver by Lessor of, or the failure of Lessor to take action, or exercise any remedy with respect to any breach of any term, covenant or condition herein contained, shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of the same, or any other term, covenant or condition therein contained. The subsequent acceptance of Rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach of Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular Rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Rent. No remedy or election hereunder shall be deemed exclusive, but shall, wherever possible, be cumulative with all other remedies at law or in equity.

ARTICLE XVI - RIGHT OF FIRST REFUSAL

16.1 Right of First Refusal. Lessor does hereby agree that if Lessor shall receive any bona fide offer acceptable to Lessor for the sale or assignment of Lessor's interest in the Land (an "Offer"), Lessor, prior to acceptance thereof, will give Lessee with respect to each such Offer, written notice thereof, together with a copy of such Offer, and in such event, Lessee shall have the option and first refusal for fifteen (15) days after receipt of such notice within which to elect to so acquire Lessor's interest in the Land on the terms of such Offer, except that the closing shall be on a date selected by Lessee on or before ninety (90) days after Lessee elects so to acquire the Land. In the event that Lessee fails to exercise its right of first refusal with respect to an Offer, Lessor may for a period of 180 days thereafter sell the Land to the offeror under the Offer, on terms materially consistent with the Offer. If Lessor fails to so convey the Land pursuant to the Offer within said period of time, the Land shall thereafter remain subject to the right of first refusal herein set forth.

ARTICLE XVII - INDEMNIFICATION OF LESSOR

17.1 Indemnification of Lessor. Except with respect to loss, injury, death or damage caused by the negligence or willful or wanton act of Lessor, Lessor shall not be liable for any loss, injury, death or damage to persons or property, including, but not limited to, claims made for medical malpractice, which at any time may be suffered or sustained by Lessee or any subtenants or any of their respective agents, servants, employees, patients, patrons, customers, invitees, visitors, licensees, departments and concessionaires, or by any person who may at any time be using or occupying or visiting the Premises or be in, on or about the same, and Lessee agrees to indemnify and hold Lessor harmless therefrom. Lessee hereby waives all claims against Lessor for damages to the Premises, and for injuries to persons or property in or about the Premises, from any cause arising at any time except if such damage or injury is caused by the negligence or willful or wanton act or omission of Lessor. Lessee shall defend Lessor with counsel selected by Lessee in any action falling within the scope of the indemnify set forth in this Section 17.1. Lessor shall have the right to select its own counsel, at its sole cost and expense, for purposes of participating in any such action.

ARTICLE XVIII - COOPERATION AND ASSISTANCE OF LESSOR

18.1 Lessor's Cooperation and Assistance. Lessor understands that Lessee is entering into this Lease for the purpose of profitably constructing, developing and operating a community recreation center on the Land and that Lessor's cooperation with, and assistance to Lessee is crucial to Lessee's success in this venture. Consequently, Lessor agrees that it will cooperate with and assist Lessee in good faith in Lessee's construction, development, promotion, management and operation of the Premises and Lessor shall take no action which will frustrate Lessee's purpose herein; provided, however, that Lessee complies at all times with the terms of this Lease.

ARTICLE IX - MISCELLANEOUS

19.1 Utilities. Lessee shall fully and promptly pay for all water, gas, heat, light, power, telephone service and other public utilities of every kind furnished to the Premises throughout the term hereof, including connection fees, and all other costs and expenses of every kind whatsoever, of or in connection with the use, operation and maintenance of the Premises, and all activities conducted thereon, and Lessor shall have no responsibility of any kind for any thereof, except as may otherwise be herein specifically set forth.

19.2 Estoppel Certificate

- (a) Lessee agrees at any time and from time to time, upon not less than ten (10) days' prior written notice by Lessor, to execute, acknowledge and deliver, without charge to Lessor, or to any person designated by Lessor, a statement in writing certifying that this Lease is unmodified (or if there have been modifications, identifying the same by the date thereof and specifying the nature thereof), that Lessee has not received any notice of default or notice of termination of this Lease (or if Lessee has received such a notice, that it has been revoked, if such be the case), that to the knowledge of Lessee no breach exists hereunder (or if any such breach does exist, specifying the same and stating that the same has been cured, if such be the case), that Lessee to its knowledge has no claims or setoffs against Lessor hereunder (or if Lessee has any such claims, specifying the same), and the dates to which the Rent and other sums and charges payable by Lessee hereunder have been paid.

{ H 0 0 0 7 8 4 0 . 3 }

- (b) Lessor agrees at any time and from time to time, upon not less than ten (10) days' prior written notice by Lessee, to execute, acknowledge and deliver, without charge to Lessee, or to any person designated by Lessee, a statement in writing stating that this Lease is unmodified (or if there be modifications, identifying the same by the date thereof, and specifying the nature thereof), that no notice of default or notice of termination of this Lease has been served on Lessee (or if Lessor has served such notice, that the same has been revoked, if such be the case), that to Lessor's knowledge no breach exists under this Lease (or if any such breach does exist, specifying the same), and the date to which the Rent and the other sums and charges payable by Lessee hereunder have been paid by Lessee.

19.3 Lessor's Right of Entry. Lessee shall permit Lessor, and the agents, employees and invitees of Lessor, to enter into and upon the Premises at reasonable times during business hours and for any reason not inconsistent with Lessee's rights hereunder for the purpose of inspecting the same.

19.4 Surrender of Lease. The voluntary or other surrender of this Lease before the expiration of the Term thereof by Lessee, or by a mutual cancellation thereof, shall not work a merger, and shall, at the option of Lessor and subject to the rights, if any, of any Lender under any Financing Documents, and except as provided in Section 13.3 hereof, terminate all or any existing subleases or subtenancies, or may, at the option of Lessor, operate as an assignment to it of any of all such subleases or subtenancies.

So long as any indebtedness evidenced by the Financing Documents has not been paid in full, there shall be no merger of the fee simple estate in the Land and the leasehold estate hereby created without the prior written consent of Lender, unless there has been an Event of Default hereunder; and the Lender has failed to timely exercise its remedies under Article VII hereof.

19.5 Remedies Cumulative. All remedies hereinbefore and hereinafter conferred on Lessor shall be deemed cumulative, and no one exclusive of the other or of any other remedy conferred by law.

19.6 Attorneys' Fees. In the event that any action at law or in equity is required to enforce the provisions of this Lease, there shall be allowed to the prevailing party, to be included in any judgment recovered, reasonable attorneys' fees.

19.7 Notices.

- (a) All notices, demands or other writings in this Lease required to be given, made or sent, shall be deemed to have been fully given, made or sent, when made in writing and hand delivered or deposited in the United States mail, certified or registered, postage prepaid and addressed as follows:

- (i) To Lessor:

200 South Hamilton Road
Gahanna, Ohio 43230
Attn: Director of Parks and Recreation

- (ii) To Lessee:

40 West Long Street
Columbus, Ohio 43215
Attn: President

- (b) The address to which any notice, demand or other writing may be given or made or sent to any party, as above provided, may be changed by written notice given by such party as above provided.

19.8 Time of the Essence. Time is of the essence of this Lease, and of each and every covenant, term, condition and provision thereof.

19.9 Force Majeure. Whenever a period of time is herein prescribed for action to be taken by Lessor or Lessee, except where such action is the payment of money, such party shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, and delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the control of such party.

19.10 Section Captions. The captions appearing under the Article number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

19.11 Short-Form or Memorandum of Lease. The parties hereto covenant and agree that, at the request of either party, Lessor and Lessee will promptly execute and deliver to the requesting party a short-form or Memorandum of Lease duly acknowledged and in recordable form which either party shall

{ H 0 0 0 7 8 4 0 . 3 }

have the right to record. Such Memorandum of Lease shall set forth the commencement and termination dates hereof and the option and first refusal rights provided for herein.

19.12 Parties Bound. The covenants and conditions herein contained shall, subject to the provisions as to assignment, transfer and subletting, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto.

19.13 Entire Agreement. This Lease sets forth the entire agreement between the parties and no surrender, termination, amendment or modification of this Lease shall be binding or valid unless expressed in a writing executed by all of the parties hereto and by any Lender, as contemplated by Article VII of this Lease. Lessor or Lessor's agents have made no representations or promises with respect to the Premises except as expressly set forth herein, and no rights, easements or licenses are acquired by Lessee by implication or otherwise except as expressly set forth in this Lease.

19.14 Severability. Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this lease or the application thereof to any person or circumstances shall be to any extent invalid and unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby.

19.15 Governing Law. This Lease shall be governed by and its provisions enforced in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties have caused this Lease to be signed by their proper corporate officers effective the day and year first above written.

Signed and acknowledged
in the presence of:

LESSOR:

The City of Gahanna, Ohio

Print name: _____

By: _____

Print name: _____

Its: _____

LESSEE:

The Young Men's Christian Association of Central Ohio,
an Ohio not-for-profit corporation

Print name: _____

By: _____

Print name: _____

Its: _____

STATE OF OHIO

: ss.

COUNTY OF FRANKLIN:

The foregoing instrument was acknowledged before me this ____ day of _____, ~~2004~~ **2002**, by _____ of the City of Gahanna, Ohio, a municipal corporation and political subdivision of the State Of Ohio, for and on behalf of said municipal corporation.

Notary Public

STATE OF OHIO

:

: ss.

COUNTY OF FRANKLIN

:

The foregoing instrument was acknowledged before me this ____ day of _____, ~~2004~~ **2002**, by _____ of The Young Men's Christian Association of Central Ohio, an Ohio not-for-profit corporation, for and on behalf of said corporation.

Notary Public

EXHIBIT "A"

Legal description

EXHIBIT "B"

Site Plan

EXHIBIT C

Lessee's Improvements

Lessor and Lessee acknowledge and agree that it is the intent of this Lease that the Project be initially designed and constructed as a prototype YMCA community center (with wellness center), with approximately 48,000 square feet of leasable space, including (i) approximately 4,500 square feet for a health and wellness center, (ii) approximately 9,200 square feet of leasable space for a fitness center, (iii) approximately 7,000 square feet of leasable space for a gymnasium, (iv) approximately 2,400 square feet of leasable space for multi-purpose use, (v) approximately 1,500 square feet of leasable space for aerobics classes, (vi) a 6-8 lane indoor swimming pool, (vii) men's and women's locker facilities and (viii) offices and related amenities.

Exhibit D

Lessor's Improvements

~~Lessor shall provide or perform the following, all so as to allow for the construction, occupancy and full enjoyment of Lessee's Improvements:~~

- ~~1. All necessary zoning/re-zoning and other regulatory clearance~~
- ~~2. All temporary and permanent easements and rights of ways to the Premises, including buffer zones where applicable~~
- ~~3. All necessary environmental investigations, reports and permits from applicable federal, state and local governmental authorities, and any and all remediation required thereby~~
- ~~4. All utilities to the property lines of the Premises, including but not limited to, gas, electricity, water, sanitary and storm sewer and fire lines~~
- ~~5. All required access to public ways, and in coordination with the construction of Lessee's Improvements, all necessary curb cuts, asphalt drives and parking areas (for parking of at least 350 vehicles), as well as necessary storm sewers and area lighting~~
- ~~6. Permanent traffic control signals as required for safe and convenient access to and from Lessee's Improvements~~

----- REVISION LIST -----

The bracketed numbers refer to the Page and Paragraph for the start of the paragraph in both the old and the new documents.

[1:8 1:8] Changed	"2001" to "2002"
[3:2 3:2] Changed	"2001" to "2002"
[4:2 4:2] Changed	"_____ (the" to "_____, 2002 (the"
[4:2 4:2] Changed	"_____ unless" to "_____, 2100, unless"
[6:2 6:2] Changed	", as the same are " to "; the parties ... constructed, "
[6:2 6:2] Changed	"Lessee in" to "Lessee on ... Lessee in"
[6:2 6:2] Changed	"at any time ... Term hereof" to "so evolve"
[8:2 8:4] Changed	"Lessor " to "Lessee "
[8:2 8:4] Changed	"deliver to Lessee " to "obtain "
[9:4 9:4] Add Para	"in the amount of \$ _____" to "in an amount ... to Lessee"
[9:5 10:1] Changed	"Lessee shall deliver ... title company."
[9:5 10:1] Changed	"financing, ... Lessee with" to "financing, ... shall obtain"
[9:5 10:1] Changed	"in the amount of \$ _____" to "to Lessee"
[9:5 10:1] Changed	"commitments provided" to "commitments, ... policies provided"
[10:1 10:2] Changed	"by Lessor. ... by Lessee." to "by Lessee."
[10:1 10:2] Changed	"Lessor " to "Lessee "
[10:1 10:2] Changed	"deliver to Lessee " to "obtain "
[14:1 14:1] Changed	"Ohio. Said" to "Ohio. Lessee ... thereof. Said"
[14:1 14:1] Changed	"a community" to "a prototype YMCA community"
[14:1 14:1] Changed	"facility" to "center"
[14:2 14:1] Changed	"and Lessor ... shall direct." to ". "
[14:2 14:2] Changed	"In addition ... Improvements, Lessor" to ""
[14:2 14:2] Changed	"initial " to "Lessor Contribution ... installments of "
[14:2 14:2] Changed	"(the "Initial ... Contribution " to ", the first ... shall be due "
[14:3 14:3] Changed	"for application ... per annum" to "with the subsequent ... November 15, 2004"
[34:8 36:6] Changed	"by Lessor and Lessee" to "by Lessee"
[41:1 40:5] Changed	"Hospital " to "Medical Center "
[47:7 44:9] Add Paras	"XV - DEFAULT" to "XV DEFAULT"
[50:18 48:4] Changed	"200 South Hamilton ... and Recreation"
[51:4 48:10] Changed	"2001" to "2002"
[57:1 52:3] Del Paras	"2001" to "2002"
	"Exhibit D ... Lessee's Improvements"