

OFFICE LEASE

Between

and

THE STATE OF MAINE
Department of Administrative & Financial Services
Bureau of Real Estate Management
on behalf of the

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This Office Lease is made and entered into this _____ day of _____, 20__ by and between _____ whose address is _____ for themselves, their heirs, executors, administrators, successors and assigns (hereinafter called the “Lessor”) and the State of Maine, Department of Administrative & Financial Services, Bureau of Real Estate Management, whose address is 77 State House Station, Augusta, Maine 04333 on behalf of _____, (hereinafter called the “Department”), WITNESSETH:

1. **LEASED PREMISES:** The Lessor does hereby lease, demise and let to the Department the following premises:

- (a) A commercial office building to be constructed or rehabilitated on the Land by Lessor at Lessor’s expense in accordance with the site plan, building plans and specifications identified in **Exhibit E**, which commercial office building (the “Building”), located at _____ shall contain a net usable area of _____ square feet of interior space; and
- (b) A parking lot to be constructed or rehabilitated on the Land by Lessor at Lessor’s expense in accordance with the site plan, building plans and specifications identified in **Exhibit E**, which parking lot (the “Parking Lot”) shall contain spaces for a minimum of ___ vehicles.

The Land, Building and Parking Lot are collectively referred to herein as the “Leased Premises”.

- (c) Lessor herein warrants that it owns the Leased Premises free and clear of all encumbrances except those listed below:

- (d) Lessor Title Reference is as follows: Book _____, Page _____, _____ County Registry of Deeds.

2. **TERMS:**

- (a) The term of this Office Lease shall be for _____ years commencing upon written acceptance of the Leased Premises by the Department. Acceptance by the Department shall be in the form set forth in Commencement Notice, **Exhibit B**, attached hereto and made a part hereof. In the event that commencement occurs after the first day of a month, a partial first month shall be added to the initial term of this Office Lease.
- (b) The Department shall have no obligation to accept the Leased Premises until (i) all construction or renovations have been completed to the satisfaction of the Department; (ii) *an unlimited and unrestricted Certificate of Occupancy has been issued by the City of _____*; (iii) *receipt of an Architects Certificate of Substantial Completion*; (iv) *receipt of*

an asbestos inspection survey; (v) receipt of a Certified Air Balancing Report acceptable to the Department; and (vi) receipt of a Life Cycle Analysis report; _____

(c) The anticipated date of commencement is _____. In the event the date of commencement is delayed for any reason, Lessor shall give the Department written notice of such delay no later than thirty (30) days prior to the anticipated date of commencement. The notice shall include the reasons for delay and the new anticipated date of commencement. If the delay in anticipated date of commencement is more than [INSERT] days, the Department may terminate the Office Lease without any obligation to the Lessor.

3. **RENTAL:** The Department shall pay rent as reflected in the chart below:

(a)

Years	Square Feet	Cost Per Square Foot	Annual Rent	Monthly Rent

Rent is payable in arrears, in accordance with the State’s usual accounting procedures, commencing with the first month of occupancy as established by the provisions of Section 2.

(b) In the event commencement occurs after the first day of a month, the first month’s rent shall be prorated to the end of that month, payable in arrears; a partial first month shall be added to the initial term of this Lease.

(c) In addition, Department agrees to reimburse Lessor annually as additional rent within sixty (60) days after receipt of proper substantiating documentation, for 100% of aggregated actual amounts paid above base year amount for its pro-rated share, based on square foot of space occupied, for only the following operating/ escalator expenses:

- Fuel for Heat
- Janitorial
- Water & Sewer Usage (separately metered)
- Snow removal, sanding and salting
- Real Estate Taxes (leased premises)

Base Year shall be the first full twelve month period after commencement date for all items except municipal real estate taxes. Base year for municipal real estate taxes shall be the first complete tax year after commencement date, which reflects assessed value of premises as improved/renovated as of commencement.

Likewise, if the aggregated operating expenses decrease from the base year, the Lessor shall reimburse to the Department the amount of the net reduction.

Proper substantiating documentation shall be photocopies of all bills from each vendor for the period during which reimbursement is sought and receipts showing that the charges have been paid in full.

Aggregated expenses shall reflect both increases and decreases in Operating Costs. Base year shall be the first full twelve months after commencement date for all items except for municipal real estate taxes. Base year for municipal real estate taxes shall be first complete tax year after commencement date, which reflects assessed value of premises as improved/renovated as of commencement.

Lessor will bill these escalation charges to the Department once a year, in arrears, beginning on the first day of the 25th full month of the Initial Term, and annually thereafter. The Lessor must reconcile the annual operating costs against the base year expenses and bill/refund the amount of the variance to the Department within six (6) months of the anniversary commencement date of the Office Lease.

4. **RENEWAL**: The Department shall have the option at its sole discretion to renew this Office Lease for two terms of five years or any portion thereof, upon the same terms and conditions, except for rent which shall be negotiated.

5. **HOLDOVER**: At termination of this Office Lease or any renewal thereof, the Department may continue in possession on a month-to-month basis by paying the specified monthly rental until one party shall give the other party written notice of termination. Such notice shall be given sixty (60) days before the premises are to be vacated. Should the notice specify a termination date prior to the end of a month, the rental shall be prorated to the date specified in the notice.

6. **ASSIGNMENT AND SUBLETTING**: The Department may not assign this lease. The Department may not sublet the Leased Premises without the written consent of the Lessor, which consent shall not be unreasonably withheld; provided, however, the Department, without the consent of the Lessor, may permit another agency of the State of Maine to occupy and use all or a portion of the Leased Premises.

7. **DAMAGE TO LEASED PREMISES**: The Department and Lessor agree that in the event of fire or other damage to the Leased Premises, the party first discovering the damage shall give immediate notice to the other party.

- (a) Repairs: In the event of damage to the Leased Premises that can be repaired within ninety (90) days:
 - (i) Lessor shall thereupon expeditiously, at Lessor's expense and in a good and workmanlike manner, undertake such repairs as are necessary to restore the Leased Premises to its previous condition; and
 - (ii) During the period Lessor is making repairs to the Leased Premises, the rent herein shall be abated in the proportion to the amount of space in the Leased Premises, which is not available to and usable by Department as a result of such loss and/or work.
- (b) Termination: In the event of damage to the Leased Premises that cannot be repaired within ninety (90) days, the Department, at its sole discretion, may terminate the lease without liability to Lessor and without further obligation to make rental payments.

8. **COVENANTS OF THE DEPARTMENT:** The Department agrees that it will:

- (a) Pay rent as set forth in Section 3;
- (b) Use and occupy the Leased Premises in a careful and proper manner;
- (c) Permit the Lessor or its agent upon adequate notice to enter the Leased Premises to inspect the same and to make such repairs as are necessary for the safety, comfort, and preservation of the Leased Premises;
- (d) Not commit nor suffer any waste on the Leased Premises;
- (e) Not permit any other person to carry on therein any offensive trade or business;
- (f) Not use the Leased Premises for any purpose other than for general office purposes;
- (g) Not engage in any hazardous activity on the Leased Premises so as to substantially increase the cost or risk the cancellation of fire, casualty or liability insurance;
- (h) Peaceably quit and deliver up the Leased Premises to the Lessor at the termination of this lease in as good order and condition, reasonable wear, tear, and obsolescence and unavoidable casualties excepted, as they are in at the beginning of the term of this Lease and shall surrender all alterations, additions and improvements, except office furniture, fixtures and equipment put in at the expense of the Department;
- (i) Be responsible for any and all loss or damage caused to any and all personal property of the Department or under the control of the Department located, in, on, or about the Leased Premises, unless the loss or damage is as a result of the negligence or willful acts or omissions of the Lessor or Lessor's officers, agents or employees;
- (j) Pay for telephone services and cost of electricity used for interior lighting and office equipment, provided it is separately metered;

9. **COVENANTS OF LESSOR:** The Lessor agrees that it will:

- (a) Maintain the Leased Premises, consistent with **Exhibit C**, (including the roof, structural components, exterior of the building, HVAC system and HVAC preventive maintenance) and fixtures in good repair and tenantable condition during the term of this lease and any renewal or any holdover period. Maintenance, repairs, and painting will be done during non-work hours except in an emergency situation or as agreed to by the Department. If the Lessor does not commence repairs within a reasonable period of time seven (7) calendar days for health & safety matters or thirty (30) days for other Leased Premises repair matters) after notification of the need for repairs or maintenance, the Department may, at its sole discretion, have the repairs made and charge the total repair amount to the account of the Lessor in the form of rent withheld during the next month or months;

- (b) Allow the Department to occupy the Leased Premises peaceably and free from the lawful claims of all other persons during the term of this Office Lease and any renewal or holdover period;
- (c) Pay all charges for electricity and/or fuel used for heating, hot water, air conditioning, ventilation, and exterior lighting used in the Leased Premises;
- (d) Provide and maintain the Leased Premises environment as described in **Exhibit C**;
- (f) Carry the following insurance during the Term of this Office Lease and any renewal term and extension thereof:
 - (i) Workers' compensation insurance, as required by Maine law, covering Lessor and Lessor's employees;
 - (ii) "All Risk" insurance (including, without limitation, fire and extended coverage) on the Leased Premises in an amount equal to the replacement value of the Leased Premises;
 - (iii) General liability insurance, with limits of not less than two million dollars (\$2,000,000) per year and one million dollars (\$1,000,000) per occurrence; provided, however, that Department may specify higher limits, which higher limits shall be procured by Lessor within sixty (60) days after they are specified by the Department. Such general liability insurance (i) shall pertain specifically to the Leased Premises and shall not include other locations owned, leased, operated or maintained by Lessor; (ii) shall include as an additional insured any person undertaking any of Lessor's obligations hereunder; and (iii) shall further include contractual coverage for Lessor's indemnification obligations contained in this Lease;
 - (iv) Automobile liability insurance against claims for bodily injury, death or property damage resulting from the maintenance, ownership or use of all owned, nonowned and hired automobiles, trucks and trailers. Minimum acceptable limit is \$1,000,000 of any one accident or loss; and
 - (v) All such insurance shall be written by reputable, financially responsible insurance carriers licensed to do business in Maine. At the commencement of the Term, and annually thereafter, Lessor shall have Lessor's insurance carrier(s) furnish Department with certificate(s) evidencing that all insurance required by this Lease has been secured and is being properly maintained. These certificates shall also specify the name(s) of the insurance carrier(s), policy number(s) and expiration date(s). Such policies also shall provide that in the event of cancellation or substantial change prior to expiration or termination of this Lease, Department will be given not less than thirty (30) days prior written notice by certified or registered mail of such cancellation or change. Lessor shall, on request, permit Department to examine original insurance policies;
- (g) Pay all charges for sewer and water services supplied to the Leased Premises;
- (h) Pay all taxes and other assessments on the Leased Premises;

- (i) Meet with the Department's representative as necessary to review and discuss the condition of the Leased Premises, (i.e., escalator, maintenance and janitorial issues);
- (j) Provide for rapid ice and snow removal from steps, walkways, doorways, sidewalks and parking lots, including sanding as needed, to be accomplished prior to normal working hours (or during working hours if more than a three-inch (3") build-up of snow occurs). Piled snow shall be completely removed from steps, walkways, doorways, sidewalks and all the parking spaces in the Parking Lot within Twenty-four (24) hours. Winter sand shall be swept and removed by May 15th.
- (k) Provide heating, ventilation, air conditioning and humidification in accordance with current ASHRAE standards (Exhibit H);
- (l) Furnish and maintain walks and lined and lighted parking spaces for a minimum of _____ vehicles, inclusive of an appropriate amount of ADA parking spaces in the Parking Lot adjacent to the building;
- (m) Replace light bulbs and ballasts;
- (n) Provide Tenant, at Tenant's request, with any information needed by Tenant to comply with all applicable state and federal reporting requirements (including, without limitation, capital lease reporting requirements);
- (o) Provide property management services to the Leased Premise (Section ___);
- (p) Comply with the State's Finish Specifications (**Exhibit E**), Leased Building Energy Efficiency Requirements (**Exhibit I**), Operational and Environmental Requirements (**Exhibit C**), Telecommunications Specifications (**Exhibit G**), ASHRAE Ventilation Requirements (**Exhibit H**) and Custodial Specifications (**Exhibit F**);
- (q) Lessor shall cooperate with Tenant to meet the requirements of 38 M.R.S.A. § 2137(3). Lessor shall provide waste disposal service (**Exhibit C, Section A (o)**) at Lessor's expense, and provide containers in an appropriate area on site for the temporary storage of recyclable materials. Lessor shall also, at Lessor's expense, be responsible for providing a dumpster and dumpster pad (if applicable) and pick-up of all non-recyclable materials;

10. **OTHER COVENANTS:**

The Parties agree:

- (a) The Department may make interior alterations, improvements and attach fixtures in the premises, provided any alterations, improvements, or attachment of fixtures which would affect the structural parts of the building or its heating, plumbing, or electrical systems, shall not be performed by the Department without the prior written consent of the Lessor;
- (b) The Department, with prior written consent of the Lessor, may attach informational signs in or upon the premises, provided attachment of informational signs to the exterior of the premises shall be performed in a workmanlike manner.

11. **COMPATIBLE TENANT:** The Lessor may not lease other space in the building without the written consent of the Department, which consent shall not be unreasonably withheld.

12. **QUIET ENJOYMENT:** Upon payment, by the Department, of the rent herein provided and upon observance and performance of all covenants, terms and conditions on the Department's part to be observed and performed, the Department shall be entitled to the beneficial use and peaceful enjoyment of the premises for the term thereof without hindrance or interruption by Lessor or any other person or persons, regardless of whether they are claiming by, through, or under the Lessor.

13. **STATE HELD HARMLESS:** The Lessor agrees to indemnify, defend and save harmless the State of Maine and the Department, its officers, agents and employees from any and all claims, defense thereof, and losses accruing or resulting to any person due to the negligence or willful acts or omissions of the Lessor.

14. **NON-APPROPRIATIONS:** This Office Lease is made subject to available budgetary appropriations and shall not create any obligation on behalf of the Department in excess of such appropriations. The Department agrees to use good faith efforts to seek appropriations in an amount sufficient to meet its obligations under this Office Lease. In the event that funds are not appropriated, or the amount of funds appropriated to the Department are reduced such that the Department determines that it cannot meet its obligations under this Office Lease, the Department, upon thirty (30) days written notice to Lessor, may terminate this Office Lease without further obligation to Lessor. This provision shall not be construed to permit the Department to terminate this Office Lease in order to enter into a new lease with a third party for similar premises for substantially the same purposes.

15. **MUNICIPAL ORDINANCES:** The parties acknowledge and agree that, in accordance with 5 M.R.S.A. § 1742-B, the Leased Premises shall comply with any applicable municipal ordinances governing the construction and alteration of buildings and shall be subject to any applicable inspections.

16. **NOTICES:** Any notices required hereunder shall be in writing and shall be sent certified mail, return receipt requested, addressed to Lessor or Department, as the case may be, at the addresses specified below or at such other address as a party may have specified by written notice hereunder.

Lessor:

Department:

Administrative and Financial
Services
Bureau of Real Estate
Management
77 State House Station
Augusta, ME 04333-0077

Contact:
Phone:
Fax:

Contact: William B. Leet
Phone: 207-624-7342
Fax: 207-287-4039

on behalf of the

Agency Contact:
Phone:

17. **TERMINATION IN EVENT OF MATERIAL VIOLATION OR DEFAULT:** In the event of a material violation of the terms of this Office Lease by either party, and upon failure of that party to bring itself into compliance with the terms of this lease upon thirty (30) days notice of receipt of the violation by the other party, such other party shall have the right to terminate this lease upon a further thirty (30) days notice. The failure of either party to give notice of a material violation shall in no event constitute a waiver of any of the terms of this lease.

18. **ESTOPPEL CERTIFICATES:**

- (a) Department shall, within thirty (30) days after a request by Lessor, execute, acknowledge and deliver to Lessor a written statement (i) certifying that the Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications), (ii) specifying the date to which rent has been paid (iii) stating whether, to Department's knowledge, Lessor is in default in performance or observance of its obligations under the Lease, and, if so, specifying each such default, and (iv) stating whether, to Department's knowledge, any event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default by Lessor under the lease, and, if so specifying each such event. Department shall not be obligated to provide such a written statement more than once every six months.
- (b) Lessor shall, within thirty (30) days after a request by Department, execute, acknowledge and deliver to Department a written statement (i) certifying that the Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications), (ii) specifying the date to which rent has been paid, (iii) stating whether, to Lessor's knowledge, Department is in default in performance or observance of its obligations under the Lease, and, if so, specifying each such default, and (iv) stating whether, to Lessor's knowledge, any event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default by Department under the Lease, and, if so, specifying each such event. Lessor shall not be obligated to provide such a written statement more than once every six months, unless a modification or event has occurred within the previous 6 months which renders the previous statement no longer accurate.

19. **MEMORANDUM OF LEASE:**

- (a) This Lease shall not be recorded.
- (b) Lessor agrees to execute a Memorandum of Lease in the form set forth in **Exhibit A** and, at its own expense, to record said Memorandum of Lease in the applicable County Registry of Deeds within ten (10) days after Department executes this Office Lease and provide a copy to the Department.
- (c) Lessor further agrees that in the event this Lease is amended, the Lessor shall, at Department's request, execute an amended Memorandum of Lease in a form acceptable to Department and shall record said amended Memorandum of Lease in the applicable County Registry of Deeds within ten (10) days after the Office Lease is amended and provide a copy to the Department.

20. **RIGHT OF FIRST REFUSAL FOR VACANT SPACE:** The Lessor agrees to provide the Department with the “Right of First Refusal” for any vacant space within the premises. The Department will have 30 days to respond to the Lessor’s notice of available vacancy.

21. **CONSTRUCTION AND OTHER DEADLINES:**

- (a) Lessor shall acquire title to the Leased premises no later than [INSERT], and shall thereupon provide to Department evidence of Lessor’s title satisfactory to Department. In the event Lessor does not acquire title to the Leased Premises by this date, Department may, at its election and without any liability to Lessor, terminate this Lease by giving written notice of such termination to Lessor.
- (b) Lessor shall obtain all necessary state and local permits for the construction of the Building and of the Parking Lot no later than [INSERT]. In the event these permits are not obtained by this date, Department may, at its election and without any liability to Lessor, terminate this Lease by giving written notice of such termination to Lessor.
- (c) Construction of the Building and Parking Lot shall begin no later than [INSERT]. In the event construction does not begin by this date, Department may, at its election and without any liability to Lessor, terminate this Lease by giving written notice of such termination to Lessor.
- (d) Lessor shall use its good faith efforts to substantially complete construction of the Building and parking Lot by [INSERT]. Lessor shall have the right to extend this completion date for up to thirty (30) days by giving Department written notice of such extension on or before [INSERT]. In such event, the date to substantially complete construction of the Building and Parking Lot shall be extended as set forth in such notice, but in no event shall this date be later than [INSERT]. Subject to the force majeure provisions set forth in this section, in the event construction of the Building and Parking Lot is not substantially completed (i) by [INSERT], if no such notice of extension is given, or (ii) if such notice of extension is given, by the date set forth in such notice, Department may, at its election and without any liability to Lessor, terminate this Lease by giving written notice of such termination to Lessor. Construction of the Building and Parking lot shall be “substantially completed” on the date that Lessor’s architect certifies that construction in accordance with the site plan, building plans and specifications identified in Exhibit [INSERT] has been completed so as to make the Building and Parking Lot ready for occupancy, exclusive of minor matters of mechanical or cosmetic adjustment that do not interfere with Department’s use of the Leased Premises.
- (e) In the event the Certificate of Occupancy and/or Architect’s Certificate of Substantial Completion is not issued by the later of (i) the date by which construction of the Building and parking Lot is to be substantially completed pursuant to Section [INSERT], or (ii) two (2) weeks after construction of the Building and Parking Lot is substantially completed, Department may, at its election and without any liability to Lessor, terminate this Lease by giving written notice of such termination to Lessor.
- (f) The deadlines contained in this Section may be extended by the mutual written consent of the parties; provided, however, that neither party shall be obligated to consent to the extension of any deadline.

- (g) The date set forth in Section [INSERT] for substantial completion of the construction of the Building and Parking Lot shall be extended by a period equal to any delay caused by or resulting from an act of God, war, civil commotion, fire or other casualty, labor difficulties, shortages of energy, labor, materials or equipment, or other causes beyond Lessor's reasonable control.

22. CHANGE ORDERS:

- (a) Any changes from the building plans and specifications identified in **Exhibit D** shall be considered to be a change order that may result in additional costs and/or delays in the date for completing construction of the Building and Parking Lot. Department may request any such change by making a written request describing the change to Lessor (which written request shall be referred to herein as "Department's Change Order Request"). Any such request shall be subject to Lessor's approval, which approval shall not be unreasonably withheld; provided, however, that no change order shall change the nature of the Building as an office building. Lessor may also submit change orders to the Department for its consideration.
- (b) Lessor shall have ten (10) days after receipt of Department's Change Order Request to notify Department of any additional items necessary to complete construction as a result of the change order and of the additional cost or credit resulting from the change order (which notice from Lessor shall be referred to herein as "Lessor's Change Order Notice"). Department may then elect either (i) to authorize Lessor to proceed with the change by executing and returning Lessor's Change Order Notice to lessor, or (ii) to withdraw Department's Change Order Request by so notifying Lessor. In the event Department fails to execute and return Lessor's Change Order Notice to Lessor within ten (10) days after receipt of Lessor's Change Order notice, Department shall be deemed to have withdrawn Department's Change Order request, unless the parties mutually agree otherwise in writing.
- (c) If Department elects to authorize Lessor to proceed with the change, Department shall be deemed to have accepted any time delays specified in Lessor's Change Order Notice, and the dates for completing construction of the Building and Parking Lot set forth in **Exhibit D** shall be extended by the length of such specified time delay. Department furthermore shall be deemed to have accepted the additional cost or credit specified in Lessor's Change Order Notice.
- (d) The beginning of the Initial Term, Lessor shall prepare a final reconciliation of all change orders upon which Department has authorized Lessor to proceed and the net additional cost or credit resulting from such change orders. If such reconciliation shows a net increase or decrease in the cost of constructing the Leased Premises, the annual base rent specified in Section 3 shall be increased or decreased, as the case may be. The parties shall enter into an amendment to this Lease confirming the adjusted annual rent and monthly installment figure.

23. PROPERTY MANAGEMENT:

(a) Lessor shall provide Property Management services as follows:

(i) Tenant or Lessor may request periodic meetings to resolve property management issues.

(ii) In the event that Tenant is reasonably dissatisfied with the Lessor's property manager or with the firm providing property management services for the Leased Premises, Tenant may give written notice of such dissatisfaction to Lessor, which notice shall identify the reasons for the dissatisfaction. The basis for such dissatisfaction may include the amount charged for property management services. Lessor shall have a reasonable time under the circumstances, but in no event more than thirty (30) days after notice, to cure the property management deficiencies. If the deficiencies are not so cured to the reasonable satisfaction of Tenant, Tenant may give written notice thereof to Lessor. Within a reasonable time of such notice of continued dissatisfaction, but in no event more than thirty (30) days after such notice, Lessor shall replace Lessor's property manager or the firm providing property management services for the Leased Premises (as the case may be) with a reputable, price-competitive property manager or firm providing property management services acceptable to Lessor. Nothing in this Paragraph shall limit Lessor's right to replace Lessor's property manager or the firm providing property management services for the Leased Premises.

24. SALE OR TRANSFER OF LEASED PREMISES BY LESSOR:

(a) Lessor may sell or transfer title to the Leased Premises; provided, however, that any such sale or transfer of title shall be subject to this Lease. Lessor shall give written notice to Department of any such sale or transfer of title within thirty (30) days following any such sale or transfer of title. Such written notice shall include (i) the date of the sale or transfer of title, and (ii) the name and address of the purchaser or transferee. Such written notice shall be accompanied by a written assumption by the purchaser or transferee of the obligations on the part of Lessor under this Lease.

(b) In the event of any sale or transfer of title to the Leased Premises by the original Lessor or by any successor Lessor, so long as each purchaser or transferee has executed a written assumption of the Lessor's obligations under this Lease, the Lessor shall be relieved of liability arising out of any act, occurrence or omission occurring after the date of such sale or transfer of title, and the Department shall look solely to the successor Lessor for the performance of any such obligation. The Lessor, however, shall remain liable for any act, occurrence or omission occurring prior to the date of such sale.

25. MORTGAGES ON LEASED PREMISES:

(a) Subject to obtaining the non-disturbance agreement referred to below, in this paragraph, this Lease is and shall be subordinate to any present or future mortgage or mortgages, upon the Leased Premises or any property of which the Leased Premises are a part, irrespective of the time of execution or the time of recording of any such mortgage or mortgages. Department agrees to promptly execute any instrument reasonably requested by the holder of any such mortgage evidencing such subordination. Any such subordination shall be

conditioned upon Lessor obtaining and delivering to Department a written agreement by such holder in recordable form and otherwise satisfactory to the Department providing that in the event of foreclosure or other action taken under the mortgage by the holder thereof, this Lease and the rights of Department hereunder shall not be disturbed but shall continue in full force and effect so long as Department shall not be in default hereunder. The word "mortgage" as used herein includes mortgages, deeds of trust or other similar instruments, and all modifications, extensions, renewals and replacements thereof, and advances thereunder.

- (b) Department agrees that if any holder of a mortgage obtains title to the Leased Premises as a result of any enforcement or foreclosure of a mortgage, Department will, upon request of such mortgagee, attorn to such mortgage and recognize such mortgagee as its Lessor under all the terms and provisions of this Lease. Any attornment pursuant to this Section 21(b) shall occur automatically, but Department agrees upon request by Lessor or any such mortgagee, without cost to the Department to execute and deliver any instruments reasonably requested to evidence such attornment.
- (c) With reference to any assignment by Lessor of Lessor's interest in this Lease, or the rents payable hereunder, (conditional in nature or otherwise) which assignment is made to the holder of a mortgage on the Leased Premises, Department agrees that the execution thereof by Lessor, and the acceptance thereof by such holder, shall not be deemed an assumption by such holder of any of the obligations of Lessor hereunder, unless such holder shall, by written notice to Department, assume such obligation and that, absent such assumption, Department shall continue to look to Lessor for the performance of Lessor's obligations hereunder; provided, however, such holder shall be deemed to have assumed Lessor's obligations hereunder upon coming into possession of the Leased Premises by statutory foreclosure, by deed in lieu of foreclosure, default, or operation of law, or the taking of possession of the Leased Premises by such holder as a mortgagee in possession. The appointment of a receiver at the request of such holder shall not be deemed to be taking possession by such holder.

26. **LAW GOVERNING:** This lease shall be governed by and construed in accordance with the laws of the State of Maine.

27. **SEVERABILITY:** The parties agree that if any provision of this lease is held to be invalid or unenforceable as applied to any person, party or circumstance, that such shall not in any way be construed to affect the validity or enforceability of the remaining provisions, as may be applied in any other circumstance or to any other person or party.

28. **INTERPRETATION:** The parties agree that no claim under this lease, or any defense to a claim, shall be based on the principle that any term or provision in the lease is ambiguous and should be construed against the drafter of the lease. The parties hereby acknowledge that they have consulted with counsel, or have had the opportunity to consult with counsel, prior to execution of the lease.

29. **WAIVER:** Payment of rent or sums due as additional rent hereunder, by the Department, with knowledge of breach by Lessor of the terms and conditions of this Office Lease shall not be deemed to be a waiver of any obligations of Lessor under the Office Lease. Failure of Department to complain of any act or omission on the part of the Lessor, no matter how long such may continue, shall not be deemed to be a waiver by Department of any of its rights. No waiver, express or implied, by

Department at any time shall be deemed a waiver of a breach of any other provision, clause, item, section or subsection of this Office Lease or a consent to any subsequent breach of the same or any other provision, clause, item, section or subsection.

30. **BANKRUPTCY AND INSOLVENCY:** If Lessor's leasehold estate shall be taken in execution, or by other process of law, or if any receiver or trustee shall be appointed for the business and property of Lessor, and if such execution or other process, receivership or trusteeship shall not be discharged or ordered removed within sixty (60) days after the Lessor shall receive actual notice thereof, or if Lessor shall be adjudicated a bankrupt, or if Lessor shall make a general assignment of its leasehold estate for the benefit of creditors, then in any such event, Department may terminate this lease by giving notice thereof to Lessor.

31. **CONDITIONS:** Notwithstanding any other conditions in this agreement, it is hereby understood that this lease shall become effective and occupancy of the premises will occur only when and if there is mutual agreement that the necessary construction or renovations have been completed to the mutual satisfaction of both the Department and the Lessor and that the premises are ready to be occupied. The rental shall begin as of the date of mutual acceptance of the premises.

32. **TOTALITY OF AGREEMENT:** This Lease (together with the exhibits attached hereto) contains the entire agreement between the parties, and no changes or modifications to the terms hereof shall be valid unless in writing and signed by all parties.

[THIS SPACE LEFT BLANK INTENTIONALLY]

In WITNESS WHEREOF, this lease has been duly executed by the parties hereto as of the day and year first above written.

(LESSOR HERE)

Owner/Agent

Date

(AGENCY HERE)

Department's Agent

Date

**DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF REAL ESTATE MANAGEMENT**

William B. Leet, Director, Leased Space

Date

Approved by: _____
Director, Bureau of Real Estate Management

Date