

## **LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (the "Lease"), made this 14th day of November, 2011 (the "Effective Date"), by and between The City of Mason, Ohio, an Ohio municipal corporation, 6000 Mason Montgomery Road, Mason, Ohio 45040, (hereinafter called "Landlord") and AssureRx Health, Inc., a Delaware Corporation, 7264 Columbia Road, Suite 600, Mason, Ohio 45039 (hereinafter called "Tenant"; Landlord and Tenant individually referred to as a "Party" or collectively referred to as the "Parties").

### **WITNESSETH:**

#### **1. Premises**

Landlord hereby leases and demises unto Tenant, and Tenant hereby takes and leases from Landlord, certain demised premises, to be constructed as shown and outlined on Exhibit A, attached hereto and incorporated herein (hereinafter called the "Premises"), consisting of approximately ten thousand (10,000) square feet, located as a distinct expansion within the existing building known as the Mason Community Center, at 6030 Mason-Montgomery Road, Mason, OH 45040, (the "Building"), Premises and Building (being collectively known as the "Facilities") being located on a site (hereinafter "Site") with other structures occupied and used variously by the City of Mason, Mason City School District, Bethesda Hospital, Inc., and others. Tenant does not assume any obligations of the Landlord to the Mason City School District or others under any existing or future agreement among those parties.

#### **2. Term**

This Lease shall have a term of five (5) Lease Years, as hereinafter defined (the "Original Term"). The Original Term shall commence (hereafter, the "Lease Commencement Date") on the first (1st) day of January, 2012 or the 1<sup>st</sup> day following the certification by Landlord's architect of record for this project that the Premises has been substantially completed in accordance with the approved Tenant's build out plan, and City of Mason Building Department granting a temporary or final certificate of occupancy for the Premises unless it is not obtainable due to additional work being performed by Tenant or other causes attributable to Tenant, whichever occurs last. Base Rent, Common Area Maintenance (hereinafter, "CAM"), as further defined in Section 12, and other charges delineated herein shall commence upon the Lease Commencement Date. Further, if the Lease Commencement Date has not occurred prior to April 1, 2012, due to some negligent act or omission by Landlord or some unforeseeable event or act of God, and further if such failure is not due to delays caused by Tenant, Tenant shall be entitled to terminate this Lease upon written notice to Landlord, exercisable at any time prior to the Lease Commencement Date, in which event the parties shall be released from all further obligations under this Lease. In

the event that Tenant terminates the Lease under this provision, Tenant shall provide to Landlord paid in full invoices for all of the improvements authorized by Tenant prior to its notice of termination to Landlord. Section 31 herein shall be applicable to Tenant's termination under this provision.

- (a) Option to Renew Lease: Provided Tenant is not in material default of any of the provisions hereof including all financial and other obligations pursuant to this Lease beyond any applicable notice and cure period at the time of giving any renewal notice, Landlord and Tenant shall negotiate the Base Rent, triple net, CAM, and term, with regard to any option to renew this Lease for any additional term(s) (a "Renewal Term"). Tenant must provide written notice to Landlord of its intent to renew at least one hundred eighty (180) days prior to the current term's expiration in order to exercise any option. The "Lease Term" shall be the Original Term together with any applicable Renewal Term(s).
- (b) Expansion Opportunities: If Tenant fulfills all terms of this Lease Agreement within the initial five-year term, but needs to expand beyond the existing Leased Premises into additional space on the Mason Community Center Campus, Landlord will facilitate Tenant's expansion into additional space in the Mason Community Center under mutually agreeable lease terms, or into another location on the Mason Community Center Campus under mutually agreeable lease terms, or into another development within the City limits of Mason acceptable to both parties, under mutually agreeable lease terms.

### **3. Definition of "Lease Year"**

For purposes of this Lease, the term "Lease Year" shall mean, for the first (1st) such Lease Year, the period beginning on the Lease Commencement Date and ending at the end of the twelfth (12th) full calendar month to elapse therefrom, and thereafter shall mean each successive period of twelve (12) consecutive calendar months during the Lease Term and any extensions thereof. If the Lease Commencement Date occurs on a date other than the first (1st) day of a calendar month, then the first (1st) Lease Year shall include the initial partial month and twelve full calendar months. Upon the Lease Commencement Date, Landlord and Tenant shall execute a Lease Commencement Date Agreement memorializing the terms of this paragraph. If the first month is a partial month, Base Rent, Taxes, CAM and other charges delineated herein running from the Lease Commencement Date until the last day of the same calendar month shall be prorated and such installment to be payable by not later than the fifth (5th) day after the Lease Commencement Date.

#### **4. Improvements to the Premises; Condition of the Premises**

- (a) Landlord's Work. Landlord, at its expense, shall cause to be completed the Premises as a "white box buildout" space, as shown and outlined on Exhibit B attached hereto and incorporated herein, (hereinafter, the "Landlord's Work"). The scope and cost of Landlord's Work shall not include purchase of Tenant's trade fixtures, laboratory equipment or the associated installation expenses except as expressly set forth in Exhibit B. Landlord shall direct its constructor of Landlord's Work to grant Tenant and Tenant's sub-contractors reasonable and timely access for the installation of Tenant's equipment or components by Tenant, subject to the reasonable safety rules, notification requirements and job site administration of Landlord's constructor.
- (b) Tenant Improvement Allowance. Tenant shall receive from Landlord an allowance of \$20.00 per rentable sq. ft for a total of \$200,000.00 (The "Tenant Improvement Allowance") for improvements to the Premises. All allowances, including those for tenant improvements and space planning shall be made available to Tenant for its use at its discretion in completing the project. Advance of the total Tenant Improvement Allowance (\$200,000) shall be made to Tenant within thirty (30) days after execution of the Lease.
- (c) Commencement of Improvements. Prior to the commencement of Landlord's Work, Landlord and Tenant shall sign, date and exchange copies of the agreed upon floor Plans, location of plumbing fixtures, furniture fixtures, doors, and general placement specifications, construction schedules, each document once agreed, also bearing the stamp (or label), "FINAL/FOR CONSTRUCTION." Said Plans, specifications, schedules, and budgets (hereinafter, the "Project Plan Documents") are a part hereof by reference and shall set forth the entire scope of work to be completed in the Premises. The Parties shall work cooperatively using commercially reasonable means to achieve a completion and occupancy of the Premises by January 1, 2012.
- (d) Tenant's Work. Tenant, at its expense, shall cause to be completed the Premises as shown in outline on Exhibit C attached hereto and incorporated herein (hereinafter the "Tenant's Work"):
- (e) This Lease incorporates all of the Landlord's Work to be performed by Landlord and all Tenant's Work to be performed by Tenant and any modification thereto shall be mutually agreed upon in writing.

## **5. Condition of the Premises**

Landlord and Tenant shall both complete their construction in a good and workmanlike manner Landlord's Work as set forth in Exhibit B, and Tenant's Work as set forth in Exhibit C, and in compliance with all applicable laws. Landlord and Tenant warrant for a period of one (1) year following the completion of their Work that their Work shall be completed in a good and workmanlike manner, in accordance with the Project Plans Specifications (as defined below) and in compliance with all applicable laws. Landlord and Tenant at its sole cost and expense, shall correct any defective or nonconforming condition of which they are given written notice prior to expiration of such one (1) year period. Subject to the completion of Landlord's Work and the foregoing warranties and except as expressly set forth in this Lease, Tenant accepts the Premises in "AS IS, WHERE IS" condition. Tenant shall not make or allow to be made any alterations, additions or improvements to or of the Premises or any part thereof, other than interior paint, carpet, and other redecorating and nonstructural changes, without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. Any alterations, additions or improvements to or of said Premises, including, but not limited to the installation of equipment permanently affixed to the Premises, but excepting movable furniture, equipment and trade fixtures, shall at once become a part of the Building and belong to Landlord and shall be surrendered with the Premises unless subsequently removed or replaced in the normal course of operations of the Premises. In the event Landlord consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense, in a good and workmanlike manner in accordance with applicable laws (including laws relating to the use of hazardous material such as asbestos-containing materials) and diligently completed. If Tenant desires to make any unusual alterations, additions or improvements which, in Landlord's reasonable opinion, would materially detract from the value of the Premises upon surrender to Landlord, then Landlord may designate such alterations, additions or improvements, at the time of granting its consent to the making thereof, as mandatory to remove, and upon the expiration or sooner termination of the Lease Term, at Tenant's sole cost and expense forthwith and with all due diligence, remove any such mandatory to remove alterations, additions or improvements made by Tenant, designated by Landlord to be removed, and Tenant shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

## **6. Use**

The Premises shall be used as a laboratory and for general office purposes and any purposes associated therewith and for provision of the services set forth and as otherwise agreed to by the parties in writing. Tenant covenants and agrees that all times during the term hereof the Premises shall be used only for the said purposes. Tenant shall abide by the

general City of Mason ordinances to the extent applicable to the use of the Premises; provided, however, Tenant shall have no obligation to make any capital repairs or replacements to the Premises in order to comply with such ordinances or other laws. Nothing herein constitutes consent by Tenant to adoption of unreasonable restrictions or terms inconsistent with this Lease. Tenant may adopt such hours of operation as it deems appropriate from time to time; subject to written notification to Landlord of operations to occur outside of regular Mason Community Center operating hours. Tenant and its employees shall use the front entrance as main ingress/egress during the Mason Community Center operating hours. Landlord shall issue prox cards to Tenant, and Tenant shall issue those prox cards to its necessary employees who are authorized for after-hours access to Tenant's Premises. Such employees shall use the direct Tenant access doorway as primary access to the Premises, after the Mason Community Center operating hours. Tenant shall provide Landlord with a list of the names of those employees who have the prox cards, including any changes to the status of that list as necessary from time to time.

#### **7. Base Rent**

Landlord reserves, and Tenant covenants to pay to Landlord, without right of offset and without prior demand therefor, as Rent for the Premises, and for the rights herein granted Tenant, a minimum rental (hereinafter referred to as "Base Rent"). The Base Rent of Tenant shall be calculated as set forth in Exhibit D 1, 3, and 5, attached hereto and incorporated herein and shall also consist of: (a) Utilities, as set forth in Section 10, and (b) Real Estate Taxes as set forth in Section 11.

#### **8. Late Payments**

Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent or any other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, late charges which may be imposed upon Landlord by terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of Rent or any other sum due from Tenant shall not be received by Landlord's designee within five (5) days after the due date, then Tenant shall pay to Landlord, if invoiced by Landlord, interest on overdue amounts equal to twelve percent (12%) per annum accruing from the date five (5) days after the due date until paid, plus any attorney's fees incurred by Landlord by reason of Tenant's failure to pay rent and/or other charges when due hereunder. The parties hereby agree that such interest represents fair and reasonable estimates of the cost that Landlord will incur by reason of the late payment by Tenant. Acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising

any of the other rights and remedies granted hereunder. The aforementioned fees and interest charges shall also apply to any invoice from Landlord for Tenant's cost for Additional Improvements or applicable change orders.

#### **9. Security Deposit**

No Security Deposit shall be required as part of the Lease.

#### **10. Utilities**

To the extent possible, the Landlord will separately meter all utilities for the Premises, and Tenant agrees to make direct payment for all such utilities. Due the nature of certain utility providers, some utility costs may be separately sub-metered but not directly billed to Tenant. As such, the parties agree that when necessary certain utility payments shall be made by the Landlord and then reimbursed by Tenant as described below. These utility reimbursements shall be considered Premises Expenses (as defined below) and shall not be considered CAM.

(a) **Electricity.** Electricity for the Premises shall be sub-metered but cannot be directly billed to Tenant. As such, the Landlord shall read the electric sub-meter on the first business day of each month and then invoice Tenant based on its actual usage at the rates then in place as shown on the utility bill provided to Landlord by the utility provider. Upon request of Tenant, Landlord shall provide copies of such utility bills.

(b) **Water.** Water for the Premises shall be sub-metered but cannot be directly billed to Tenant. As such, the Landlord shall read the water sub-meter on the first business day of each month and then invoice Tenant based on its actual usage at the rates then in place as shown on the utility bill provided to Landlord by the utility provider. Upon request of Tenant, Landlord shall provide copies of such utility bills.

(c) **Stormwater.** The stormwater user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of Chapter 951 of the Mason Codified Ordinances and the ERU and ERU rate which shall be established and changed from time to time by City Council. This fee appears on the water utility bill received by Landlord. Landlord shall invoice Tenant for its share of the stormwater user fee based on the applicable ERU rate for the Premises.

(d) **Sanitary Sewer.** Rates for sanitary sewer service shall be as set forth in Chapter 941 of the Mason Codified Ordinances. Sewer service fees are determined as a function of water usage and are billed as part of the water utility bill received by Landlord. Landlord shall invoice Tenant for the sanitary sewer utility fees in conjunction with the invoice described in division 4(A) described herein.

(e) **Trash.** Tenant will not be responsible for any costs associated with standard

trash removal.

#### **11. Real Estate Taxes**

In the event that Real Estate Taxes are applicable to any portion of the Premises improvements Tenant shall bear such costs during the Lease Term, providing funds to Landlord in advance of Real Estate Taxes being due, so that Landlord can make such payment to the taxing authority.

#### **12. Premises Expenses and Common Area Maintenance Expenses**

I. Except as otherwise provided herein, Landlord shall pay all expenses associated with the Facilities and Site and maintain same in good condition throughout the Lease Term. Such expenses shall include, but not be limited to: public utilities (not including telecom), general repair and maintenance expenses, cost of maintenance personnel to the extent used to maintain, repair and/or clean the Facilities, repairs to the building envelope (including the roof, caulking, exterior sealers, etc), cost of operating, maintaining or repair heating, ventilating or air conditioning equipment, cost of consumable supplies used in public restroom facilities, lighting supplies and maintenance, any regular and periodic program of painting, plumbing expenses, electrical expenses, and any other ordinary operating cost typically incurred to prudently maintain the interior and mechanical improvements and structures comprising the Facilities.

Notwithstanding the foregoing, Landlord's liability to pay expenses of the Facilities may be limited as more fully set forth herein.

II. In addition to the Base Rent set forth in Section 7, Tenant shall pay as "Additional Rent" during the term of the Lease and any extension or renewal thereof, Tenant's Premises Expenses and CAM Expenses (as set forth and defined below) for the Facilities. In addition, Tenant shall pay any and all sums of money or charges required to be paid by Tenant under the terms of this Lease whether designated Additional Rent or not, and such amounts, if not paid when due, shall be collectible as Additional Rent within thirty (30) days after receipt of written invoice from Landlord and shall be subject to all provisions of this Lease and of law as to default in the payment of rent; provided, nothing herein shall be deemed to excuse or delay the obligation of Tenant to pay any amount of money or charge at the time the same shall become due under the terms of this Lease. Tenant's obligation to pay Additional Rent shall commence on Lease Commencement Date as set forth in Section 2 above. The CAM to be paid by Tenant as Additional Rent shall be paid in equal monthly installments, beginning on the first day of each month, calculated as set forth in **Exhibit D nos. 2, 4 and 5**, attached hereto and incorporated herein.

(a) **Premises Expenses**. Premises Expenses are certain expenses incurred by Landlord that are for the exclusive benefit of the Premises. Tenant shall pay

Premises Expenses incurred by Landlord with respect to the Facilities. The term "Premises Expenses" shall be defined as all expenses, costs and disbursements (but not replacement of capital investment items) of every kind and nature, which Landlord shall pay or become obligated to pay that are for the exclusive benefit of the Premises, including but not limited to the following:

1. Janitorial/custodial services for the Premises, including carpet cleaning.
2. Fire system within the Premises (annual service, sprinkler, extinguishers).
3. General maintenance in the Premises (light bulbs, painting, etc.).
4. Any other service or maintenance agreements for the benefit of the Premises.
5. Security system for the Premises.
6. Interior window cleaning for the Premises.
7. Biohazard waste removal from the Premises.
8. Computer system and equipment within the Premises.
9. Telephone system within the Premises.
10. Time and attendance system within the Premises.

It is not anticipated that Landlord will incur any Premises Expenses and that these costs will be directly paid by Tenant. Landlord will pay no Premises Expenses without prior written consent of Tenant, which shall not be unreasonably withheld.

- (b) Common Area Maintenance Expense ("CAM") shall be defined as any expense incurred by Landlord to the common benefit of both Building and Premises (explicitly excluding any cost of the Site or Facilities borne by, or that should reasonably be allocated to, the Mason City School District or another third party with occupancy of the Site). Examples of CAM shall include, but not be limited to:

- (i) Any expense of Section 12(a) above that is not exclusively for Building and is also not separately paid for by Tenant.
- (ii) Utilities for the Facilities not subject to sub-metering or separate, direct payment by Tenant.
- (iii) Landscaping services pertaining to the Site (only that portion reasonably allocated to the Facilities).



- (iv) Parking area maintenance pertaining to all expenses incurred by Landlord in connection with the maintenance of the parking area located at the Building, including parking areas, access roads, driveways, retaining walls, landscaped areas, and sidewalks, (only that portion reasonably allocated to the Facilities).
- (v) Snow removal services pertaining to the Site (only that portion reasonably allocated to the Facilities).
- (vi) Any joint scope of exterior repair, maintenance and cleaning of the structures comprising the Facilities.
- (vii) Repair, maintenance and cleaning of sidewalks, curbs, plazas, signs and roadways interior to the Site (only that portion reasonably allocated to the Facilities).

Notwithstanding any of the foregoing, CAM shall not include:

- (i) depreciation of the Building or Premises or any equipment, fixtures, improvements and facilities used in connection therewith;
- (ii) interest on and amortization of debt, other expenses related to incurring debt, and payment of ground rent;
- (iii) the cost of leasehold improvements for other Tenants of the Building and any other expense pertaining to the Building that is not for the mutual benefit of the Building and Premises;
- (iv) cost of any "tap fees" or any other one-time costs incurred in securing utility services for the Facilities, except that any such costs related solely to the Premises may be included in Total Cost for rent calculation purposes;
- (v) fees and expenses (including legal and brokerage fees, advertising, marketing and promotional costs) paid by Landlord in connection with procuring tenants or leasing any space within the Facilities; fees and expenses for procuring new tenants for the Building;
- (vi) legal fees and litigation costs, including but not limited to costs incurred by Landlord relating to any violation by Landlord or any other tenant of the terms and conditions of any lease;
- (vii) costs specifically charged to other tenants or paid by insurance or any other third-party source;
- (viii) expenses or costs incurred by Landlord relating to any violation by

Landlord or any other tenant of the terms and conditions of any lease;

- (ix) expenses incurred in operating any business or public service which Landlord may operate in the Building, other than general expenses of the Facilities as provided in Section 12(a);
- (x) the cost of any work or service performed for any tenant in the Building to a materially greater extent or in a materially more favorable manner than that furnished to Tenant;
- (xi) Landlord's general overhead and administrative expenses;
- (xii) any expenses incurred by Landlord to accommodate special events, including but not limited to shows, promotions, private events or parties, ceremonies and advertising beyond the normal expenses otherwise attributable solely to Building services, such as lighting and HVAC to such public portions of the Building in normal operations during standard Building hours of operation, unless otherwise agreed to by Tenant as a joint event;
- (xiii) any costs in excess of those which are reasonable and customary in the community at the time;
- (xiv) any type of utility service which is separately metered to or separately charged or paid by Tenant;

### **13. Workforce Attraction and Wellness Partnerships**

- (a) Mason Community Center Incentive Landlord will provide Basic Family Memberships to the Mason Community Center for all Tenant's employees, with eligibility beginning at Commencement Date of the Lease, continuing during the Term of the Lease. Tenant shall contribute \$40,000.00 per year to upgrade basic membership, to premier membership, to be made available to all employees, payable on June 1, 2012, and every one year anniversary thereafter, so long as Tenant occupies the Premises through the Original Term. Landlord and Tenant shall have the option to renegotiate and renew this Incentive at the end of the Original Term of the Lease. The Mason Community Center Incentive shall be further outlined and calculated as set forth in **Exhibit E**, attached hereto and incorporated herein.
- (b) Business Development Golf Access Incentive Landlord will provide up to eighty (80) rounds of golf at the Golf Center at Kings Island so long as Landlord owns this Golf Center, for businesses development, workforce recruitment and retention purposes.

- (c) Wellness Programming Partnership This is intended to provide an opportunity for Landlord in partnership with Tenant to develop wellness programming. As a corporate partner at the Mason Community Center Tenant will provide no fewer than two seminars per year in areas of wellness in cooperation with Landlord, and its partners, Bethesda Health, Inc., Tri Heath, and others that apply in areas such as: wellness/healthcare, mental health, ADHD, Pain Management, Depression.

#### **14. Furniture and Fixtures**

Tenant agrees, at its own cost and expense, to furnish the Premises with its furniture, equipment and trade fixtures. All furniture, equipment, and trade fixtures installed in the Premises by Tenant shall remain Tenant's property. Tenant agrees to repair (or to reimburse Landlord for the cost of repairing) any damage to the Premises occasioned by the installation or removal of said trade fixtures.

#### **15. Use of Common Areas**

Tenant and its employees shall have the right to use and enjoy, in common with Landlord and other tenants and their customers, employees, and invitees, the parking areas, elevators, hallways, common restrooms, approaches, entrances, exits and roadways and all other areas of the Building and Site intended for use by Landlord, tenants and their customers, employees and invitees (the "Common Areas"), which Landlord agrees to provide for the reasonable operation of the Building and Premises. Tenant, its employees, and any invitees of Tenant or its employees, shall not trespass into the Common Areas of the Mason Community Center, at any time after its regular, posted business hours, except as may be necessary for access to the Premises after hours. Landlord covenants that, at all times during the term, it will maintain the Common Areas in a good condition of repair and adequately lighted and paved and secured, and that there will be at least the minimum number of parking spaces sufficient to satisfy governmental requirements, as determined by the applicable Planned Unit Development ("PUD") requirements, at the time of the date of this Lease or any subsequent change of law. Tenant, and its employees shall park in the agreed upon parking area the general vicinity of said parking spaces is shown on the Site Plan attached hereto as Exhibit A. Anything in this paragraph to the contrary notwithstanding, Landlord expressly reserves the right, from time to time, to construct buildings and/or enlarge existing buildings on or over the Common Areas provided that Tenant's access, parking, utilities and visibility from the public street are not materially impaired.

#### **16. Landlord's Obligations, Repairs and Right of Entry**

Landlord agrees to do the following as long as Tenant is not in default of this Lease beyond

any applicable notice and grace period:

- (a) Landlord shall furnish heat or air conditioning to the Premises twenty four (24) hours a day, seven (7) days a week each day of the year during the Term of the Lease; provided, however, that Landlord shall have a reasonable time to maintain and repair the heating and air conditioning system upon notice from Tenant of such work being needed from time to time;
- (b) Pay for a sufficient amount of electricity for normal Common Area uses during regular business hours, and at other times for prudent exterior lighting;
- (c) Cause the Common Areas of the Facilities and the Site on which they are located to be cleaned on a regular basis, and cause the parking lot to be cleaned free of ice and snow on an as-needed basis;
- (d) Cause to be cleaned all exterior portions of the Building and Premises, including exterior windows, to commercially accepted standards; and
- (e) Landlord covenants that it will, with reasonable dispatch after being notified in writing by Tenant of the need thereof, make such repairs or replacement to the Common Areas, outside utility lines exterior of the Premises (including the roof, gutters, downspouts and outside walls, glass and doors), and building systems, including electrical, plumbing, heating, air conditioning, and ventilation systems and equipment not within the Premises, as may be necessary to keep the same in a good condition of repair. Anything in the foregoing to the contrary notwithstanding, Landlord shall have no liability whatsoever for damage or injury to Tenant's property occasioned by its failure to make any such repair (e.g., injury or damage to Tenant's property resulting from leaks caused by a defect in the roof, outside walls, gutters and/or downspouts) unless, within a reasonable time after being notified in writing by Tenant of the need therefor, Landlord shall have failed to make such repair and such failure shall not have been due to any cause beyond Landlord's control, including, without limitation, strikes and/or inability to obtain materials and/or equipment at reasonable prices, in which case rent shall abate until Landlord completes the repair or restores the interrupted service. Landlord, its agents, employees and contractors, shall have the right, from time to time, with reasonable notice, to enter and use insofar as may be necessary the Premises for the purpose of making any of the aforesaid repairs. Tenant shall not be entitled to any reduction in rent or to any claim for damages by reason of any inconvenience,

annoyance, and/or injury to business arising out of any repairs made by Landlord in a reasonable and proper manner pursuant to this paragraph.

#### **17. Repairs**

Except as otherwise set forth in this Lease, Tenant covenants that it will, at all times during the term and at its own cost and expense, keep the interior of the Premises (including, without limitation, windows, doors, glass, fixtures, equipment, HVAC equipment located within its leased Premises, light bulbs and fixtures, and all other components or parts of the Premises which Landlord has not expressly agreed to maintain or repair) in a good and safe condition of repair and in good working order (making such renewals and replacements as may be necessary), unless the need therefore is occasioned by fire or other casualty covered by Landlord's insurance policy, in which event such repair and replacement shall be an expense of Landlord to the extent of such coverage. Notwithstanding the foregoing, Landlord shall be responsible for any capital repairs or replacements to the HVAC equipment located within the Premises and shall make any necessary repairs and replacements to the roof and other structural elements of the Premises.

#### **18. Final Inspection of the Premises**

Final inspection by Landlord will be done prior to Tenant's move out and no utilities will be disconnected until final inspection has been done and documented. Tenant is to arrange such inspection with the City Manager of Landlord prior to Tenant's move out.

#### **19. Tenant's Care of Premises and Common Areas**

Tenant covenants and agrees that it will, at all times during the term hereof, keep the Premises, and the Building to the extent of its use, clean and free from obstruction, rubbish, and dirt, except for items addressed by Landlord's janitorial service. Tenant shall place all trash, rubbish and garbage in a proper closed receptacle and shall not permit its personnel or anyone else under its control to litter or obstruct the Common Areas adjoining the Premises.

#### **20. Tenant's Failure to Repair and Remove Debris**

Tenant agrees that if it fails to perform any obligation placed upon him by either Section 17 or 19 of this Lease after reasonable notice and opportunity to cure, Landlord, in addition to other remedies provided by law and/or this Lease, may correct, in Landlord's sole and absolute discretion, the default in a reasonable manner at the cost and expense of Tenant.

#### **21. Miscellaneous Covenants of Tenant**

Tenant covenants that: it will comply with all Federal, State and/or municipal laws, ordinances and regulations relating to his business conducted in the Premises; (provided, however, Tenant shall have no obligation to make any capital repairs or replacements to the

Premises in order to comply with such laws, ordinances and regulations); it will promptly pay for all electricity, gas, water and other utilities consumed on, and all sewage disposal charges assessed against, the Premises; it will not use the name of the Building for any purpose other than as the address of his business to be conducted in the Premises; it will not use, or permit to be used, the Premises for any illegal or immoral purpose; it will conduct its business in such manner as will be in keeping with the character and reputation of the Building; it will make commercially reasonable efforts to work harmoniously with other tenants in the Building; it will comply with all reasonable rules and regulations promulgated from time to time by Landlord for the operation of the Building; it will not, cause or allow any advertising sign to be erected, installed, painted, displayed or maintained on the exterior of the building of which the Premises constitute a part except in accordance with applicable zoning regulations; it will keep all signs installed (with the consent of Landlord, which consent, pursuant to the terms of this Lease shall not be unreasonably withheld) on the exterior of the building of which the Premises constitute a part, freshly painted, in good repair and operating condition at all times; it will not without the prior written consent of Landlord: (i) make any alteration to any structural portion of the Premises, (ii) use or permit to be used any advertising medium or device such as a phonograph, radio or public address system outside the Premises, and (iii) hold a fire, bankruptcy, going-out-of-business or auction sale; and (iv) it will permit Landlord or its representatives (a) to enter the Premises at reasonable times upon reasonable prior notice during the last six (6) months of the Lease Term for the purpose of exhibiting the Premises to prospective tenants, and (b) to place a "For Rent" sign in a front show window during such period of time.

## **22. Fire Hazard**

Tenant covenants that, without the prior written consent of Landlord, it will not do anything of an unusually hazardous nature which will increase the rate of fire insurance on the building of which the Premises constitute a part, and that if such consent is given, Tenant will pay Landlord the amount of the increase in the cost of such insurance, as and when the premiums become due.

## **23. Care of Roof**

Tenant agrees that it will not (directly or by sufferance) place any debris on the roof of the building of which the Premises constitute a part or cut, drive nails into or otherwise mutilate the roof or penetrate roof in anyway without prior consent of Landlord, which shall not be unreasonably withheld, and that it will keep the roof, gutters and downspouts free of all debris caused by his employees, contractors, agents or invitees. The Tenant's build out plan shall make provision for Tenant to pass cables to the roof in case Tenant elects to place satellite dishes or other data equipment there.

#### **24. Condition on Termination**

Tenant covenants that it will, upon the expiration or earlier termination of this Lease, (a) deliver up to Landlord, peaceably and quietly, the Premises in the same condition they are now in or shall hereafter be placed, ordinary wear and tear and damage by casualty, (not caused by the negligence of Tenant), or condemnation and the consequences of any failure by Landlord to comply with its obligations excepted, and (b) remove his trade fixtures and/or signage from the Premises and to repair promptly any damage caused by such removal.

#### **25. Improvements to Become Landlord's**

Tenant agrees that all additions and other permanent improvements installed in the Premises by Tenant, including, without limitation, all electric wiring, electric fixtures and floor coverings (including wall to wall carpeting but excepting rugs, furniture, equipment and trade fixtures) shall immediately become the property of Landlord, and shall not be removed by Tenant at the expiration or earlier termination of this Lease, but may be removed or modified by Tenant in the course of making further renovations or repairs of the Premises at a later time in accordance with other provisions of this Lease.

#### **26. Indemnification and Release**

Tenant shall indemnify, defend and hold harmless Landlord and its officers, directors, employees, volunteers, attorneys and agents from and against any and all third-party claims, and from and against all costs, including reasonable attorney fees and disbursements, incurred in the defense of any such claim, and from and against all losses and damages awarded against an indemnitee in any such third-party claims (including consequential, punitive damages and attorney fees), to the extent arising from (i) the negligence, gross negligence or willful misconduct of Tenant, or (ii) Tenant's failure to perform its obligations pursuant to this Lease; excluding, however, any of the foregoing to the extent resulting from negligence, breach of this Lease or other fault on the part of Landlord, its other tenants or contractors, volunteers, and their respective employees, agents, clients, patients, invitees and guests. The provisions of this section shall survive the expiration or earlier termination of this Lease.

#### **27. Tenant's Insurance**

Tenant will, at all times during the term of this Lease, at its own cost, maintain, with companies reasonably acceptable to Landlord, rated A:XII or better as set forth in the most current "Best's Key Rating Guide" and which shall be licensed to do business in the State of Ohio, commercial general liability and property damage insurance with combined single liability limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, covering Tenant's activities and operations in the Premises, or equivalent coverage under a self-insurance program, and property insurance covering Tenant's personal property for its full

replacement cost. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the required occurrence limit. Tenant's commercial general liability insurance policies shall name Landlord, its officers, officials, and employees as additional insureds with respect to vicarious liability of any Additional Insured resulting from acts or omissions of Tenant or other parties for which Tenant is responsible, and arising out of the ownership, maintenance or use of that part of the premises leased to Tenant. Coverage shall be primary to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess, but shall not be applicable to the independent negligence or other fault of any Additional Insured. Tenant covenants that certificates of all of the insurance policies required under this Lease, and their renewal or replacement, shall be delivered to Landlord promptly upon demand. Such policy or policies shall also provide that notice shall be provided to Landlord if canceled.

#### **28. Landlord's Insurance**

Landlord will, at all times during the terms of this Lease, at its own cost, maintain a policy or policies of insurance with an insurance company with an A.M. Best rating of A-VII or better, insuring the building and improvements comprising the Facilities against all risk (special cause of loss form, its equivalent, or better) of direct physical loss in an amount equal to the full replacement cost of the building structure and improvements as of the date of loss, provided Landlord shall not be obligated in any way or manner to insure any personal property of Tenant upon or within the Premises. Landlord's insurance shall include boiler and machinery coverage on the Building's mechanical and electrical systems and coverage for loss of rents for a period of at least twelve months. Landlord shall at all times during the term of this Lease maintain commercial general liability insurance in amounts at least equal to that required of Tenant per this Lease or equivalent coverage under a self-insurance program organized and maintained in accordance with Section 2744.08 of the Ohio Revised Code. Landlord's commercial general liability insurance policy or policies shall name Tenant as an additional insured and such policy or policies shall also provide that notice shall be provided to Tenant if canceled.

#### **29. Waiver of Subrogation**

Anything in this Lease to the contrary notwithstanding, Landlord and Tenant hereby waive and release each other of and from any and all right of recovery, claim, action or cause of action, against each other, their other tenants or subtenants and any of their respective agents, officers and employees, for any loss or damage to property that may occur, including but not limited to loss of use, regardless of cause or origin, including negligence of Landlord or Tenant, their other tenants or subtenants and their agents, officers and employees, to the



extent that the loss or damage is covered by insurance maintained by a party, or would have been covered if insurance had been maintained in accordance with terms of this Lease. Landlord and Tenant agree immediately to give their respective insurance companies which issued policies of insurance written notice of the terms of the mutual waivers contained in this section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverage by reason of the mutual waivers.

### **30. Damage By Fire or Other Casualty**

If the Premises or any substantial part of the Premises is damaged or destroyed by fire or other casualty, such that the damage cannot be replaced or repaired within One Hundred Eighty (180) days thereafter, either Party may by written notice to the other, terminate this Lease, which termination shall be effective as of the date of such damage.

If the Premises are made partially or completely untenable as a result of fire or other casualty, and the Lease is not terminated as provided above, this Lease shall remain in full force and effect and the Base Rent, and Additional Rent and CAM shall abate during such time as the Premises are untenable; provided, however, if Tenant occupies part of the space, Rents (Base and Additional) shall be abated by an amount determined by multiplying the Rent (Base and Additional) by a fraction of the numerator of which is the leasable space which cannot be occupied and the denominator of which is the total leasable square footage within the Premises.

Unless this Lease is terminated as herein above provided, this Lease shall remain in full force and effect and Landlord shall proceed with due diligence to restore, repair, and replace the Premises and Building to substantially the same condition as it was in as of the Commencement Date. Landlord shall be under no duty to restore any alterations, improvements or additions made by the Tenant or by Landlord at Tenant's request after the Commencement Date (other than Landlord's Work, as set forth in Section 4), unless the same are covered by proceeds of insurance available to Landlord in which case Landlord shall restore the same. In all cases, due allowances in the completion of the repairs shall be given to the Landlord for any reasonable delays caused by adjustment of insurance loss, strikes, labor difficulties, inability to obtain supplies or materials or any other cause beyond Landlord's control. If the Premises or any substantial part of the Premises is not actually replaced or repaired within One Hundred Eighty (180) days after the casualty, Tenant may by written notice to Landlord, terminate this Lease with no further obligation by Tenant to Landlord under this Lease by written notice to Landlord given at any time prior to completion of the restoration.

### **31. Mechanic's Liens**

Tenant shall not permit any mechanic's, materialman's or similar lien to stand against any

portion of the Premises or the Building for any labor performed or material finished in connection with any work performed or caused to be performed by Tenant. If any such lien is filed against the Premises or the Building, Tenant shall indemnify and hold Landlord harmless from any obligation pertaining thereto and shall discharge such lien by paying the amount secured thereby or providing a bond within twenty (20) days after it was filed, or such longer period as is required to secure judicial approval of a bond with due diligence, and if Tenant fails to do so Landlord may discharge the lien without inquiring into the validity thereof and Tenant shall promptly reimburse Landlord for any amount so expended.

### **32. Condemnation**

In the event that the whole of the Premises are taken by the exercise of the power of eminent domain (or sold to the holder of such power, pursuant to a threatened taking) and such taking is more than twenty (20) days, this Lease shall terminate as of the date of such taking. In the event any portion of the Premises, or at least twenty percent (20%) in the aggregate, of the customer parking areas of the Building, are taken by the exercise of the power of eminent domain and which taking is in excess of sixty (60) days (or sold to the holder of such power, pursuant to a threatened taking) and it is not reasonably possible for Landlord to replace any parking so taken, this Lease may, at the option of Landlord or Tenant, be terminated by written notice given to the other within sixty (60) days after such taking or sale occurs. If this Lease is not so terminated, Landlord covenants that it will, at its own expense, promptly after the lapse of said sixty (60) days, repair such damage and do such work as may be required to repair and rebuild Tenant's Premises and/or the Common Areas, with the view to restoring the Premises and/or the Common Areas as nearly as may be to the condition they were in immediately prior to such taking; provided, however, that whether or not this Lease is so terminated, the Base Rent, Additional Rent, and CAM payable hereunder shall be equitably abated (according to the loss of use) from the date of such taking. Tenant shall have no right in or to the proceeds of any award made to Landlord in any such condemnation, but shall have the right to its own award for loss of use, relocation costs or leasehold improvements made by it (and not by Landlord).

### **33. Assignment and Subletting**

Tenant covenants that it will not assign this Lease, or sublet or permit any other person to occupy part or all of the Premises, without Landlord's prior written consent, which may not be unreasonably withheld. The criteria to be used in determining whether Landlord may reasonably withhold consent to any assignment or sublet are that: (i) Tenant shall not be relieved of any liability for performance of all terms and provisions of this Lease; (ii) Tenant is not in default of this Lease after any applicable notice and/or cure periods; (iii) the successor has a net worth and creditworthiness acceptable to Landlord in its reasonable discretion; (iv) the business reputation of the successor is acceptable to Landlord in its reasonable

discretion; (v) the use as set forth in this Lease remains the same or as otherwise permitted pursuant to this Lease; (vi) the assignment or sublet is in a form with such terms as reasonably acceptable to Landlord; (vii) the Premises shall not be subdivided except in case of subletting between related entities; and (viii) the successor meets other reasonable requirements that Landlord would consider if leasing directly to such successor.

Notwithstanding anything to the contrary contained in this Lease, Landlord hereby consents to an assignment or subletting by Tenant of its interest and obligations in this Lease, (upon Tenant's written notification to Landlord) to (a) any entity that is wholly owned by the named Tenant herein so long as such subsidiary remains wholly owned, directly or indirectly, by Tenant named herein; (b) any wholly owned subsidiary of the corporation (the "Parent Corporation") owning all of the stock of Tenant named herein, so long as such subsidiary continues to be owned, directly or indirectly, by such Parent Corporation; (c) the purchaser of all or substantially all of the assets of Tenant; (d) the successor entity in the event of the merger or consolidation of Tenant; (e) an entity under common control with the Parent Corporation or another subsidiary; (f) an entity with which the Parent Corporation consolidates or pools its assets; and (g) Tenant's Parent Corporation. Any costs incurred to revise to Tenant's signage shall be at Tenant's sole expense

#### **34. Subordination**

Landlord warrants that there are no ground leases, mortgages or deeds of trust which now affect the Premises, the land on which the Premises are situated, the Common Areas or the Building, except for a certain ground lease between Landlord and Mason City School District as to which Landlord hereby represents and warrants that Landlord has the right to enter into this Lease without violating said ground lease, and covenants to comply at all times with its obligations under said ground lease and provide and guarantee Mason City School District's non-disturbance. If in the future, Landlord elects to grant a first mortgage covering the Premises, alone or together with other property, Tenant shall, upon request of the Landlord, execute and deliver, in recordable form, any instrument of subordination reasonably requested by Landlord, provided, however, that any such instrument contains provisions in form reasonably acceptable to Tenant that in the event of a foreclosure or any other enforcement action under any such mortgage, the mortgagee and the purchaser at any foreclosure sale shall recognize this Lease without disturbance of Tenant's possession or rights hereunder and this Lease shall continue in full force and effect and Tenant shall attorn to the new property owner as Landlord. Any such mortgage may at any time, at the request of the holder of the note secured thereby, be subordinated to this Lease.

#### **35. Default**

The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant.

(a) The permanent abandonment of the Premises by Tenant, resulting in the Premises falling into disrepair.

(b) The failure by Tenant to make any payment of rent or cost for Additional Improvements, or any other payment required to be made by Tenant hereunder, as and when due, which failure continues for ten (10) days after written notice from Landlord. If Tenant disputes in good faith the amount of any payment demanded by Landlord, Tenant shall pay any undisputed portion and this Lease shall not be subject to termination during pendency of the dispute, provided that Tenant promptly pays, with interest and reasonable attorneys' fees, any amount that is finally determined to be its responsibility.

(c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than described in (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. If Tenant disputes in good faith any non-monetary performance demanded by Landlord, Tenant shall perform any undisputed portion and this Lease shall not be subject to termination during pendency of the dispute, provided that Tenant promptly performs any obligation that is finally determined to be its responsibility and pays Landlord's reasonable attorneys' fees incurred in enforcing Tenant's obligations.

(d) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within forty-five (45) days.

### **36. Remedies**

In the event of any such default or breach by Tenant which continues after the applicable

notice and/or cure periods, Landlord may at any time thereafter, in its sole discretion, with or without demand and without limiting Landlord in the exercise of a right or remedy which Landlord may have by reason of such default or breach:

- (a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises; reasonable attorney's fees; the present value at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent and other charges and Common Area Maintenance called for herein for the balance of the Lease Term after the time of such award exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided by Landlord reletting the Premises. Unpaid installments of rent or other sums shall bear interest from the date due at the legal rate; or
- (b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent and any other charges and CAM as may become due hereunder; or
- (c) Pursue any other remedy or combination of remedies now or hereafter available to Landlord under the laws or judicial decisions of the State in which the Premises are located.
- (d) Cure any default or breach of warranty of Tenant hereunder, and perform any covenants which Tenant has failed to perform, and any sums expended by Landlord in curing such default or breach of warranty and performing such covenants shall be paid by Tenant to Landlord immediately upon demand, shall bear interest at the legal rate per annum from the date of demand and/or bring a suit to recover from Tenant all sums due Landlord from Tenant together with interest at the legal rate per annum thereon.
- (e) In addition to all other remedies, Landlord is entitled to the restraint by injunction of all violations, actual, attempted or threatened of any covenant, condition or provision of this Lease.

- (f) If Tenant fails to conduct any material business activities in the Premises for a period of 180 consecutive days, excluding any period that Tenant is prevented from doing so due to renovation or casualty, then Landlord may give Tenant a notice of its intention to terminate this Lease and if Tenant does not resume the conduct of material business activities in the Premises within 30 days after receipt of such notice, then Landlord may terminate this Lease by giving written notice to Tenant within 15 days after expiration of such 30-day period. Upon any such termination, the term of this Lease shall end as if such termination date were originally specified as the expiration date of this Lease and rent for any partial month shall be prorated.

### **37. Tenant Early Vacation of the Premises**

(a) If Tenant terminates the Lease Agreement, vacates the Leased Premises, and re-locates its business outside of the City of Mason, Ohio at any time within the first 48 months of the Lease, then there shall be recapture costs, due and payable to Landlord in addition to the Base Rent and Additional Rent, on a graduated scale, as follows:

- (i) Up to and including month 12 from the effective date of this Lease, the recapture costs shall be \$500,000.00.
- (ii) From month 13 through month 24 from the effective date of this Lease, the recapture costs shall be \$300,000.00.
- (iii) From month 25 through month 36 from the effective date of this Lease, the recapture costs shall be \$200,000.00.
- (iv) From month 37 through 48 from the effective date of this Lease, the recapture costs shall be \$100,000.00.

### **38. Estoppel Certificate**

Within ten (10) business days after written request of Landlord, Tenant shall certify by a duly executed and acknowledged written instrument to any mortgagee or purchaser, or proposed mortgagee or proposed purchaser, or any other person, firm or corporation specified by Landlord, as to the validity and force and effect of this Lease, as to the existence of any default on the part of any Party thereunder, as to the existence of any offsets, counterclaims, or defenses thereto on the part of Tenant, and as to any other matters as may be reasonably requested by Landlord, to the best of Tenant's knowledge, all without charge and as frequently as Landlord reasonably deems necessary. Tenant's failure or refusal to deliver such statement within such time shall be conclusive upon Tenant (i) that this Lease is in full

force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance or obligations hereunder, and (iii) that not more than one month's installment of minimum rent has been paid in advance of the due date.

### **39. No Waivers**

Any failure of either Party hereto to insist upon strict observance of any covenant, provision or condition of this Lease in any one or more instances shall not constitute or be deemed a waiver, at that time or thereafter, of such or any other covenant, provision or condition of this Lease.

### **40. Hazardous Materials**

(a) Landlord and Tenant hereby covenant and agree that the following terms shall have the following meanings in this Lease:

- (i) **"Environmental Laws"** mean all federal, state, and local laws, statutes, ordinances, and codes relating to the use, storage, treatment, generation, transportation, processing, handling, production, or disposal of any Hazardous Substance and the rules, regulations, policies, guidelines, interpretations, decisions, orders, and directives with respect thereto.
- (ii) **"Hazardous Substance"** means, any flammable explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, as defined in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, *et seq.*), or any other applicable Environmental Law and any medical refuse, waste, needles or related material.
- (iii) **"Release"** has the same meaning as given to that term in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, *et seq.*), and the regulations promulgated thereunder.

(b) Tenant covenants and agrees with Landlord as follows:

- (i) Tenant shall keep, and shall cause all occupants of the Premises to keep the Premises and Building free of all Hazardous Substances

introduced by Tenant or anyone acting under Tenant, except for Hazardous Substances stored, treated, generated, transported, processed, handled, produced, or disposed of in the normal operation of the Premises, in accordance with all Environmental Laws.

- (ii) Tenant shall comply with, and shall cause all occupants of the Premises to comply with all Environmental Laws, without assuming responsibility for any pre-existing Hazardous Substances or any obligation of Landlord under this Lease
  - (iii) Tenant shall promptly provide Landlord with a copy of all notifications which it gives or receives with respect to any past or present Release of any Hazardous Substance or the threat of such a Release on, at, or from the Premises and Premises or any property adjacent to or within the immediate vicinity of the Premises.
  - (iv) Landlord shall have the right, but not the obligation, to cure any violation by Tenant of the Environmental Laws and Landlord's costs and expense to so cure shall be the responsibility of Tenant under this Lease.
- (c) Tenant covenants and agrees, at its sole cost and expense, to indemnify, defend, and hold harmless Landlord from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements, and/or expenses (including, without limitation, reasonable attorneys' and experts' fees and expenses) of any kind or nature whatsoever which may at any time be imposed upon, incurred by, asserted, or awarded against Landlord arising out of the actions or inactions of Tenant or any occupant of the Premises, and arising from (i) the storage, treatment, generation, transportation, processing, handling, production, or disposal of any Hazardous Substance introduced to the Premises by Tenant or anyone acting under Tenant; (ii) the presence of any Hazardous Substance introduced by Tenant or anyone acting under Tenant or a Release of any such Hazardous Substance or the threat of such a Release; (iii) human exposure to any Hazardous Substance introduced by Tenant or anyone acting under Tenant; (iv) a violation of any Environmental Law, without assuming responsibility for any pre-existing Hazardous Substances or any obligation of Landlord under this Lease; or (v) a material misrepresentation or inaccuracy in any representation or warranty or material breach of or failure to perform any covenant made by Tenant herein (collectively, the "Indemnified Matters"). The liability of Tenant to Landlord hereunder shall in



no way be limited, abridged, impaired, or otherwise affected by: (i) the release, expiration, or termination of this Lease; (ii) the invalidity or unenforceability of any of the terms or provisions contained in this Lease; (iii) any exculpatory provisions of this Lease; (iv) any applicable statute of limitations; (v) the assignment of this Lease by Landlord or Tenant; (vi) the sale, transfer, or conveyance of all or part of the Premises; (vii) the dissolution or liquidation of Tenant; (viii) the death or legal incapacity of Tenant; (ix) the release or discharge, in whole or in part, of Tenant in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation, or similar proceeding; or (x) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of Tenant under this Lease. The foregoing indemnity shall be in addition to any and all other obligations and liabilities Tenant may have to Landlord at common law.

- (d) Tenant agrees not to introduce any Hazardous Material in, on or adjacent to the Premises without complying with all applicable federal, state and local laws, rules, regulations, policies and authorities relating to the storage, use or disposal, and clean-up of Hazardous Materials, including, but not limited to, the obtaining of proper permits.
- (e) Tenant shall immediately notify Landlord of any inquiry, test, investigation, or enforcement proceeding by or against Tenant or the Premises concerning a Hazardous Material. Tenant acknowledges that Landlord, as the owner of the Premises, shall have the right, at its election, to participate in any action taken or order issued with regard to a Hazardous Material by an applicable governmental authority.
- (f) If Tenant's storage, use or disposal of any Hazardous Material in, on or adjacent to the Premises results in any contamination of the Premises, Building, the soil or surface or groundwater requiring remediation under federal, state or local statutes, ordinances, regulations or policies, Tenant agrees to clean-up the contamination. Tenant further agrees to indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs, fees, including attorneys' fees and costs, arising out of or in connection with any clean-up work, inquiry or enforcement proceeding in connection therewith, and any Hazardous Materials currently or hereafter used, stored or disposed of by Tenant or its agents, employees, contractors or invitees on or about the Premises or Building.
- (g) Tenant shall surrender the Premises to Landlord upon the expiration or

earlier termination of this Lease free of Hazardous Materials introduced by Tenant or its agents, employees, contractors or invitees and in a condition which complies with all governmental statutes, ordinances, regulations and policies, recommendations of consultants hired by Landlord, and such other reasonable requirements as may be imposed by Landlord (provided, Tenant shall only be required to cause the Premises to so comply to the extent of any Hazardous Materials introduced by Tenant or its agents, employees, contractors or invitees).

- (h) Tenant's obligations under this Article 40 shall survive termination of this Lease.
- (i) Landlord shall have the same obligations to Tenant with respect to any existing Hazardous Material on the Site as of the date hereof, or Hazardous Material introduced by anyone other than Tenant or its agents, employees, contractors or invitees, as Tenant has to Landlord with respect to Hazardous Material introduced by Landlord.

#### **41. Compliance with Americans with Disabilities Act of 1990**

Landlord shall comply with all laws, rules, and regulations in connection with the Americans with Disabilities Act of 1990, as amended (the "ADA"). If the ADA requires that action be taken with respect to the Premises (not including the Common Areas), including without limitation removing barriers and altering the Premises in accordance with the ADA Accessibility Guidelines, such action shall be taken by Landlord, unless such action is required as a result of Tenant's change in its use of the Premises (other than for general office use or research and development) in which cases Tenant shall be responsible for the costs of such compliance. Tenant shall notify Landlord immediately upon receipt of an oral or any written complaint or notice by an employee, customer, client, invitee, licensee, or governmental authority regarding a potential violation of the ADA. Each Party shall indemnify and hold the other Party harmless from and against any expense or liability (including attorney's fees) arising from the first Party's failure to fully comply with this Section.

#### **42. Compliance with Governmental Laws and Regulations**

Except for noncompliance existing as of the Lease Commencement Date, and noncompliance resulting from breach of Landlord's repair and other obligations set forth in this Lease, for which Landlord shall be responsible, Tenant, at its sole cost and expense, shall comply with and shall cause the Premises to comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the Premises or any part thereof, or the use thereof. If changes in any of the foregoing require the making of any structural, unforeseen or extraordinary changes

constituting capital expenditures under generally accepted accounting principles, whether or not any such statutes, laws, rules, orders, regulations and/or ordinances which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same, then Landlord shall be responsible for making such changes, but the cost of doing so (in relation to the Premises only, not to the Building or the Site) may be included in Total Cost in accordance with Section 12(d). Except for noncompliance resulting from breach of Tenant's repair and other obligations set forth in this Lease, Landlord, at its sole cost and expense, shall comply with and shall cause the Building, Common Areas and other parts of the Site to comply with all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the Site or any part thereof, or the use thereof.

#### **43. Signs and Generator**

(a) Signs. Tenant shall have the privilege, subject to any applicable ordinances or PUD regulations related to signage, of placing on the Premises such signs as it deems necessary and proper in the conduct of its business, provided the Tenant pays all costs, governmental fees and obtains the proper governmental permits associated with the erection, maintenance and operation of any and all such signs. Tenant agrees to hold Landlord harmless from any and all losses, damages, claims, suits or actions for any damage or injury to the person or property caused by the erection, maintenance and operation of such signs or parts thereof, unless caused by the negligence or other fault of Landlord. Initial signage shall be as follows. Landlord will add at Landlord's expense "AssureRx Health" to the multi-tenant sign on the west side of the main entrance to the Community Center; Landlord will add a tan painted area on the exterior surface of the northern wall of the tenant space at Landlord's expense, above the glass store front windows. Tenant will install black AssureRx sign on such painted area with address, at Tenant's expense, and such wall sign shall be reviewed and approved by City of Mason Planning Commission; interior blade signage and interior address number consistent with other tenants, to be added near the Tenant main entrance in the lobby of the Building at Landlord's expense. Tenant shall be permitted one white window graphic to be installed near internal Tenant entrance to remain consistent with other tenants, at Tenant's expense. Landlord will work with Tenant to arrive at any additional appropriate signage to benefit guests and invitees of Tenant during the Term of the Lease. Such signage as may be requested by Tenant and approved by Landlord shall be installed as agreed, at Tenant's sole cost and expense. It is a condition of Tenant's obligations under this Lease that prior to start of construction of the Premises, Landlord or Tenant shall have obtained all governmental authorizations necessary to erect and maintain the signage set forth in the Project Plan Documents, of a type and size permitted under the Zoning Ordinance of the City of Mason. Tenant shall be responsible for the cost of removal/relocation of the exterior wall sign upon

termination of the Lease.)

(b) Generator. Tenant shall have the privilege, subject to any applicable ordinances or PUD regulations, such as certain screening and size, to install a freestanding generator, including storage tanks, UPS batteries and all other equipment necessary to facilitate such generator, at Tenant's cost, on a concrete generator pad and in the Premises. The site upon which the generator is placed shall be at no cost to Tenant. The exact location of such generator shall be mutually agreed upon between Landlord and Tenant but shall be located outside of the Building and no more than fifteen (15) feet from an exterior wall of the Building. It is anticipated that the generator will be located near the direct Tenant access doorway. During the Term, Tenant shall have the right to use Building shafts or conduits between the Premises and other parts of the Building (including the roof) for the installation and maintenance of conduits, cables, ducts, flues, pipes and other devised, supplementary HVAC and other facilities consistent with Tenant's use of the Premises and other portions of the Building and the right to connect such generator and UPS systems to the Premise rooftop HVAC equipment. Tenant shall be responsible for the cost of removal/relocation of the generator upon termination of the Lease.

#### **44. Notices**

Any notice herein provided for to be given to Landlord shall be deemed to be given if and when posted in United States registered or certified mail, postage prepaid, or when deposited with a recognized overnight delivery service, addressed to Landlord at the Building, and any notice herein provided for to be given to Tenant shall be deemed to be given two business days after posted in United States registered or certified mail, or one business day after deposited with a recognized overnight delivery service, addressed to Tenant at the Premises, or at such other notice address as a party may specify.

#### **45. Quiet Enjoyment**

Subject to the terms, covenants and conditions set forth in this Lease, Landlord covenants that Tenant shall have and enjoy quiet and peaceable possession of the Premises during the term hereof.

#### **46. Memorandum of Lease**

The parties hereto agree that a memorandum of lease, of even date herewith, describing the Premises, setting forth the term and referring to this Lease, shall, at the request of either Party, be promptly executed and recorded (at the cost of the requesting Party). This Lease may not be recorded.

#### **47. Pronouns**

Every pronoun used in this Lease shall be construed to be of such number and gender as

the context shall require.

#### **48. Marginal Headings**

The headings appearing on the margin of this Lease are intended only for convenience of reference, and are not to be considered in construing this instrument.

#### **49. Successors and Assigns**

This Lease and all the terms, covenants, conditions and provisions herein contained, shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and (if and when assigned in accordance with the provisions hereof) assigns.

#### **50. Occupancy**

If Tenant is unable to obtain possession of the Premises at the beginning of the term hereof due to any act or condition (such as construction delays), Landlord shall not be liable to Tenant or any other person, firm or corporation for any loss or damage resulting therefrom, and this Lease shall not be affected thereby in any way, unless Tenant elects to terminate under Section 2, but the rent payable hereunder shall be proportionately abated until the Premises are available for occupancy by Tenant

#### **51. Holding Over**

Unless Tenant exercises a right to renew the Term expressly granted elsewhere herein or unless Landlord demands possession of the Premises before the end of the original or any renewal Term of this Lease, then this Lease shall automatically renew itself month to month, at one hundred fifty percent (150%) of Tenant's then current Base Rent rate, and subject to all covenants, provisions and conditions herein contained. Landlord and Tenant shall both have the right to terminate the holdover tenancy upon thirty (30) days written notice.

#### **52. Time is of the Essence; Days or Months Reference**

Time is of the essence of this Lease. Unless specifically provided otherwise, all references to terms of days or months shall be construed as references to calendar days and/or calendar months, respectively.

#### **53. Attorneys' Fees**

If Landlord and Tenant litigate any provision of this Lease, and one party substantially prevails on the merits, the unsuccessful litigant will pay to the successful litigant all costs and expenses, including reasonably attorney's fees and court costs, incurred by the successful litigant at trial and on any appeal. If, without fault, either Landlord or Tenant is made a Party to any litigation instituted by or against the other, the other will indemnify the faultless one against all loss, liability, and expense, including reasonably attorneys' fees and court costs,

incurred by it in connection with such litigation.

#### **54. Brokers**

Landlord represents and warrants that, except for Capital Real Estate Partners, LLC representing Landlord, no other real estate broker or brokers were involved in the negotiation and execution of this Lease. Landlord shall be solely responsible to pay any broker commission to Capital Real Estate Partners, LLC. Tenant warrants that it has had no dealings with any real estate brokers or agents in connection with the negotiation of this Lease, and it knows of no other real estate broker or agent who is entitled to a commission in connection with this Lease. Each Party hereby agrees to indemnify, defend and hold harmless the other Party from and against any liability, cost or expense, including attorneys' fees, as a result of any claim for a commission, fee or other compensation made by any other real estate broker, finder or other Person and asserted against the other party by reason of an arrangement made or alleged to have been made by the indemnifying party.

#### **55. Governing Law; Jurisdiction**

This Contract shall be governed by and construed in accordance with the laws of the State of Ohio and the Parties agree that any dispute pertaining to this Lease shall be commenced in the Warren County, Ohio court system. Each party warrants to the other that this Agreement has been duly authorized by all necessary actions in order for it to be valid and enforceable in accordance with its terms including, in the case of Landlord, all necessary City Council action and issuance of all necessary certificates of available funds.

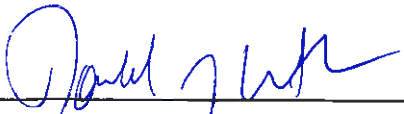
#### **56. Entire Agreement**

This Lease and the Exhibits set forth the entire agreement between the parties with respect to the subject matter hereof. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed. If any provision contained in an Addendum is inconsistent with a provision of this Lease, the provision contained in an Addendum shall supersede the Lease provision.

***Signature Pages Follow***

Signed and Acknowledged in the Presence of:

Witnesses:

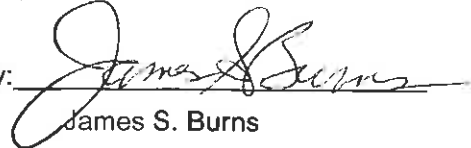
  
(Witness signature)

DONALD R WRIGHT  
(Printed name)

11/14/11  
(Date)

**TENANT:**

AssureRx Health, Inc., a Delaware Corporation

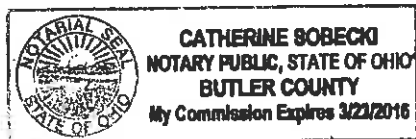
By:   
James S. Burns

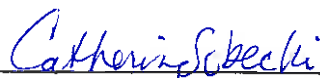
Title: President & CEO

STATE OF OHIO )  
 ) ss:  
COUNTY OF BUTLER )

BEFORE ME, a Notary Public in and for said County and State, personally appeared James S. Burns, President & CEO of AssureRx Health, Inc., a Delaware corporation, who acknowledged that he/she did sign the foregoing instrument to be of his voluntary act and deed and that he/she had full authority to sign on behalf of said entity.

IN TESTIMONY HEREOF, I have hereunto set my hand and official seal this 14 day of November, 2011.



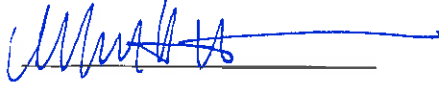
  
NOTARY PUBLIC

Witness:

LANDLORD:

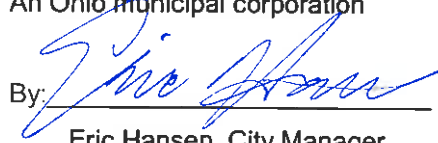
City of Mason, Ohio

An Ohio municipal corporation



(Witness signature)

By:



Eric Hansen, City Manager

Michele F. Blair

(Printed name)

11/14/2011

(Date)

STATE OF OHIO )

) ss:

COUNTY OF WARREN )

Before me, a Notary Public in and for said County and State, personally appeared Eric Hansen, the City Manager of the City of Mason, Ohio, an Ohio municipal corporation, who acknowledged that he did sign the foregoing instrument to be of his voluntary act and deed and that he had full authority to sign on behalf of said entity.

IN TESTIMONY HEREOF, I have hereunto set my hand and official seal this 14<sup>TH</sup> day of NOVEMBER, 2011.

  
NOTARY PUBLIC

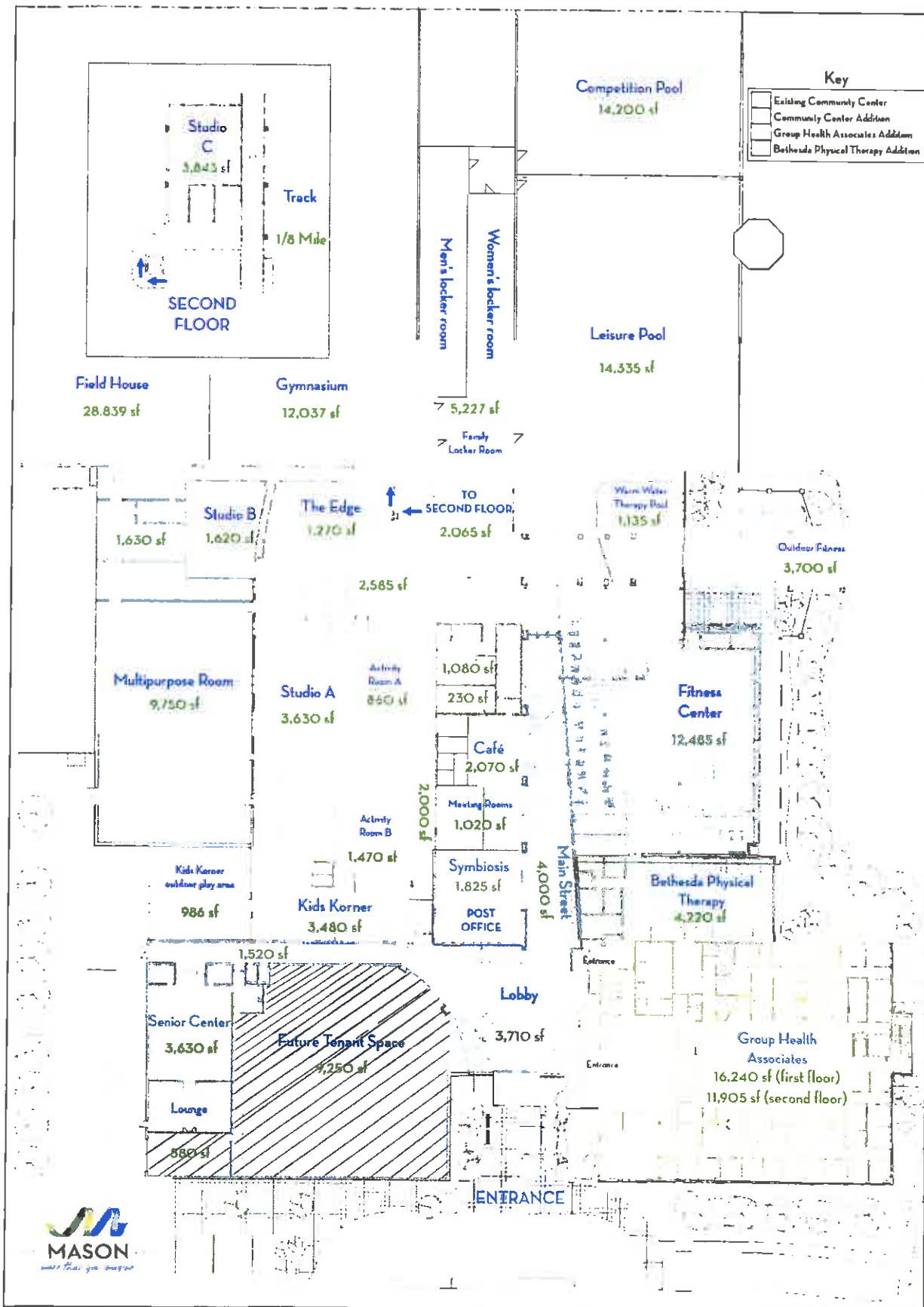
**JOAN BERNARD**  
Notary Public, State of Ohio  
My Commission Expires May 7, 2015



**EXHIBIT A**

(UPON FINALIZING, INSERT SITE PLAN SHOWING LOCATION OF PREMISES)

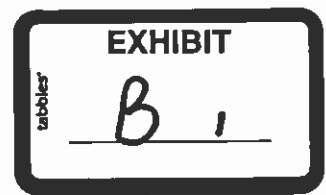
# Mason Community Center



Outline of Premises =

**EXHIBIT B**

**Landlord's Work**



**Mason Community Center  
Retail Area "White Box" Build Out  
Revised October 27, 2011**

**Perimeter Walls and Concrete Slab:**

1. Obtain building and electric permit from Mason Building Dept.
2. Install under-floor electrical and data conduit only as needed per AssureRx drawing dated 8/30/2011
3. Install under-floor sanitary waste lines only as needed per AssureRx drawing dated 8/30/2011 for:
  - a. Breakroom sink/dishwasher
  - b. Extraction Room sink and eye-wash station
  - c. Lab sinks and dishwasher
  - d. Restrooms
  - e. Service sink
4. Install rough plumbing in perimeter walls, as needed.
5. Complete concrete floor, ready to receive finishes.
6. Install electrical outlets on perimeter walls.
7. Insulate and drywall, ready for finish, perimeter walls.
8. Stud and drywall to roof existing senior center area and enclose existing door to kitchen.
9. Stud, insulate, drywall, ceiling and finish interior walls for Men and Women restrooms, electrical room.
10. Provide doors and door hardware for restrooms and electrical room.
11. Install double glass front doors to lobby with exit sign.
12. Tile all walls of restrooms to 5 feet above floor.
13. Finish walls around perimeter and island columns not connected to tenant partitions.

**Plumbing:**

1. Obtain Warren Co. Plumbing Permit
2. Install one ADA compliant men's restroom, consisting of the following:
  - a. One handicap water closet, floor mount, pressure assist
  - b. One water closet, floor mount, pressure assist
  - c. Two wall hung urinal, with flush valve
  - d. Two drop-in lavatories, w/ single handle & mixing valve
3. Install one ADA compliant women's restroom, consisting of the following:
  - e. One handicap water closet, floor mount, pressure assist
  - f. Two water closets, floor mount, pressure assist
  - g. Two drop-in lavatories, w/ single handle & mixing valve
4. Install one ADA compliant electric double water cooler
5. Install one 50 gallon electric water heater
6. Ceramic floor tile and base included in each restroom
7. Provide water supply piping, with submeter
8. Provide toilet partitions, mirrors and accessories
  - h. Toilet paper dispensers
  - i. Paper towel dispensers
  - j. Soap dispensers
  - k. ADA approved grab bars in handicap stalls, backer plate required
  - l. Sanitary napkin disposals in women's stalls
9. Provide sprinkler drops to restrooms and electrical room.

**HVAC:**

1. Obtain Mason Building Dept. Permit
2. One (1) Trane Roof Top Unit containing heating & cooling package, compatible with existing building management system. Includes curb, economizer, barometric relief, smoke detector, and DDC control interface. RTU will not be tied into the building management system by owner, tenant will be responsible for tie-in at same time the VAV's are connected.
  - a. Intake and discharge ducting to penetrate roofing structure
  - b. (10) VAV boxes to be supplied by owner, installed by tenant
  - c. Structural support for rooftop unit by owner

**Electric:**

1. Install electric feed from main switch gear to location for RTU.
2. Install 750 Kcmil Al feeders with #1 Al ground from main switch gear to new sub-metered service in tenant electrical room.
3. Install #1 Al feeder from main switch gear to new service for grounding, plus the following:
  - a. 36 floor receptacle circuits
  - b. 21 floor receptacle boxes
  - c. Five 1" power conduit home runs
  - d. 21 floor data boxes
  - e. 21 1" voice/data home runs
  - f. (2) 480 volt NF panels, (1) 200 amp and (1) 100 amp
  - g. 10 – 20 amp single pole 480 breakers
  - h. 2 – 60 amp, three pole 480 volt breakers
  - i. One 75 kva transformer 480 to 120/208v
  - j. Relocate and use one 200 amp 42 space, loaded 120/208v panel
  - k. Recessed ceiling light fixtures for restrooms and electrical room
4. Provide fire alarm notification devices to the restroom and electrical room.

**EXHIBIT C**  
**Tenant's Work**

## **EXHIBIT D**

### **Rent Calculation Agreement**

**THIS RENT CALCULATION AGREEMENT** (the "Agreement"), made this 14th day of November, 2011 (the "Effective Date"), by and between The City of Mason, Ohio (hereinafter called "Landlord"), and AssureRx Health, Inc., a Delaware corporation (hereinafter called "Tenant") (Landlord and Tenant individually referred to as a "Party" or collectively referred to as the "Parties"). The Parties agree as follows:

**1. Base Rent (10,000 Square Feet):**

\$10.00/Square Foot or \$100,000.00, annual cost; \$8,333.00, monthly cost in Year 1 and Year 2

**Additional Rent/CAM (10,000 Square Feet):**

\$5.00/Square Foot or \$50,000.00, annual cost; \$4,167.00, monthly cost in Year 1 and Year 2.

**2. Base Rent Escalation:**

TIME PERIOD	ANNUAL RENT	MONTHLY RENT	TOTAL BASE PER SQ. FT.
Year 3	\$111,000	\$ 9,167	11.00
Year 4	121,000	10,083	12.10
Year 5	133,100	11,092	13.31

**3. Additional Rent/CAM Escalation:**

TIME PERIOD	ANNUAL CAM	MONTHLY CAM	TOTAL CAM PER SQ. FT.
2014	\$52,500	\$4,375	5.25
2015	55,125	4,594	5.51
2016	52,500	4,823	5.79

**4. Total Base Rent and Additional Rent/CAM:**

TIME PERIOD	ANNUAL RENT	MONTHLY RENT	ANNUAL CAM	MONTHLY CAM	RENT PER SQ. FT.
2012	100,000	8,333	50,000	4,167	15.00
2013	100,000	8,333	50,000	4,167	15.00
2014	111,000	9,167	52,500	4,375	16.25
2015	121,000	10,083	55,125	4,594	17.61
2016	133,100	11,092	57,881	4,823	19.10

***Signature Pages Follow***