

STATE OF NORTH CAROLINA

**LEASE AGREEMENT**

COUNTY OF CHATHAM

**THIS LEASE AGREEMENT** ("Lease") is made and entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the undersigned Lessor and Lessee.

**WITNESSETH THAT:**

**WHEREAS**, Lessor holds fee simple title to the Building; and

**WHEREAS**, Lessee is desirous of leasing space in the Building pursuant to the terms, conditions and covenants set forth below.

**NOW, THEREFORE**, in consideration of the terms, conditions and covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree, covenant and bind themselves as follows:

**ARTICLE I**

**DEFINITIONS**

**Section 1.01 Definitions.** When and as used in this Lease, the following terms shall have the meanings ascribed to them:

(a) Additional Rent. "Additional Rent" shall mean any and all late fees and other fees, costs, charges, expenses and assessments, exclusive of Minimum Annual Rent, the Annual Operating Expense Allowance and the Annual Operating Expense Adjustment,

(b) Annual Operating Expense Adjustment. "Annual Operating Expense Adjustment" shall mean an amount of money an annual increase of 3% beginning the second year and again the third year of the lease term.

(c) Annual Operating Expense Allowance. Initial operating expense of \$175.00 per month will be added to the monthly rent each month.

(d) Building. "Building" shall mean Building "E" located within the Project.

(e) Commencement Date. "Commencement Date" shall mean **February 1, 2016 or other commencement date agreed to by the Lessor and Lessee.**

(f) Common Area. "Common Area" shall mean such grounds, parking areas, driveways, sidewalks, entrances, lobbies, hallways, stairwells, elevators and other area(s) within the Building or the Project as are designated by Lessor as common area.

(g) Lease Year. "Lease Year" shall mean a twelve (12) month period during the term of this Lease beginning on the Commencement Date or on any anniversary of the Commencement Date.

(h) Lessee. "Lessee" shall mean The Town of Pittsboro a municipality in Chatham County, North Carolina.

(i) Lessor. "Lessor" shall mean Chatham Mills Development Corp., a North Carolina corporation doing business in Chatham County, North Carolina.

(j) Minimum Annual Rent. "Minimum Annual Rent" shall mean the annual base rent for the Premises which shall be paid by Lessee to Lessor each Lease Year. Minimum Annual Rent shall not include the Annual Operating Expense Allowance, the Annual Operating Expense Adjustment or Additional Rent.

(k) Monthly Rent. "Monthly Rent" shall mean the monthly installment of Total Annual Rent required to be paid by Lessee to Lessor each month during the term of this Lease.

(l) Premises. "Premises" shall mean Suite 400, containing all that area located on the first level of the Building, as shown on the attached **EXHIBIT A**, with a non-exclusive right and privilege to use the Common Area.

(m) Project. "Project" shall mean the Chatham Mills Development Corp, a mixed use commercial development located at 480 Hillsboro Street, Pittsboro, Chatham County, North Carolina.

(n) Regulations. "Regulations" shall mean any regulations regarding the use and/or operation of the Project, including without limitation, the Building, the Premises and the Common Area, as may be adopted by Lessor from time to time.

(o) Rent. "Rent" shall mean any one or more of Minimum Annual Rent, the Operating Expense Allowance, Monthly Rent, the Annual Operating Expense Adjustment and Additional Rent.

(p) Total Annual Rent. "Total Annual Rent" shall mean the sum of the Minimum Annual Rent and the Annual Operating Expense Allowance required to be paid by Lessee in any Lease Year or part thereof.

(q) Upfit Contribution. "Upfit Contribution" shall mean an amount, if any, expressly stated in this Lease which shall be paid by Lessee to Lessor as partial reimbursement of the costs and expenses incurred by Lessor to upfit and improve the Premises.

**Section 1.02 Construction.** All other words and terms shall be construed in accordance with their ordinary and accepted meanings or trade usages, if appropriate, unless the context otherwise requires.

**ARTICLE II**

**LEASEHOLD**

**Section 2.01      Conveyance.**

(a) Premises, AS-IS Condition. Lessor hereby conveys, leases and demises to Lessee, and Lessee hereby accepts from Lessor, a leasehold interest in the Premises in "AS-IS" condition and subject to all of the terms, conditions and covenants contained in this Lease and in the Regulations. Lessee shall inspect the Premises prior to the Commencement Date. Upon taking possession of the Premises, Lessee shall be deemed to have accepted the Premises in "AS-IS" condition.

(b) Common Area. Subject to all of the terms, conditions and covenants contained in this Lease and in the Regulations, Lessee and its employees, guests, customers, licensees and invitees while doing business with Lessee shall have the non-exclusive right and privilege of using the Common Area together with Lessor, other tenants of the Project and their respective employees, guests, customers, licensees and invitees.

(c) Possession. Subject to the provisions of paragraph **2.02 (a)**, Lessor shall deliver possession of the Premises to Lessee in "AS-IS" condition on the Commencement Date.

**Section 2.02      Term.**

(a) Term. Subject to the termination rights contained in this Lease, the term of this Lease shall commence on the Commencement Date and end at 11:59:59 p.m. on the day prior to the third(3rd) anniversary of the Commencement Date. In the event Lessor shall permit Lessee to take possession of the Premises prior to the Commencement Date, all of the terms, conditions and covenants contained in this Lease shall apply effective as of the date of such possession.

(b) Renewal. There may be a renewal or extension of the term of this Lease upon the agreement of both parties in writing.

**Section 2.03      Holding Over.** If Lessee shall hold over after the expiration or termination of the term of this Lease, (a) such holding over shall not be deemed to be an extension or renewal of the term of this Lease but shall be deemed to create a tenancy-at-sufferance; (b) Lessee shall be deemed to have agreed to be bound by all of the terms, conditions and covenants contained in this Lease; and (c) during such tenancy-at-sufferance, Lessee shall pay to Lessor Minimum Annual Rent in an amount equal to one hundred fifty percent (150%) of the Minimum Annual Rent in effect on the date of expiration or termination of the term of this Lease together with such Annual Operating Expense Allowance, Annual Operating Expense Adjustment, Additional Rent and other fees, costs, charges, expenses and assessments as are required to be paid by Lessee pursuant to the terms of this Lease. In addition,

Lessee shall be liable to Lessor for any and all losses incurred by Lessor, including, without limitation, the loss of any prospective tenant for the Premises, proximately caused by Lessee's holding over.

**Section 2.04**      **Lessor's Reserved Right of Entry.**    Lessor reserves the right to enter the Premises, without abatement of Rent, upon not less than twenty-four (24) hours prior notice to Lessee, to view the state or condition of the Premises or to make such alterations or repairs therein as may be necessary for the safety and preservation of the Premises, or for any other reasonable purpose. Lessor shall not be required to give the notice to Lessee required by this paragraph in the event of a bona fide emergency.

**Section 2.05**      **Restrictive Covenants.**

(a)    Permitted Uses.    Lessee shall use the Premises Office Space and for no other purpose without the prior written consent of Lessor.

(b)    Prohibited Activities.    At no time during the term of this Lease shall Lessee use or permit to be used any part of the Premises (i) for any purpose prohibited by state, county, municipal or federal law, ordinance or regulation, (ii) in any manner inconsistent with the terms, covenants and conditions contained in this Lease or in the Regulations, or (iii) in any manner which shall increase the fire insurance premiums for the Building (or make such insurance unavailable to Lessor).

(c)    Signage.    Lessee shall place no sign or signboard on the exterior of the Premises or elsewhere in, on or upon the Building or the Project without the prior written consent of Lessor, which consent shall not be unreasonably withheld. In no event shall Lessor approve any exterior signage that is inconsistent with the plans and specifications for the Building and/or the Project or that has not been approved by the Town of Pittsboro or any other governmental or regulatory authority if such approval is required. The cost of any sign or signboard, including installation, shall be paid by Lessee.

(d)    Inducement.    The aforementioned covenants are inducements for Lessor to enter into this Lease, are of the essence, and shall be liberally construed in Lessor's favor.

**Section 2.06**      **Lessor's Warranties.**

(a)    No Warranties of Title.    Lessor makes no warranties of title with respect to this conveyance of the Premises.

(b)    Quiet Enjoyment.    Subject to all of the terms, conditions and covenants contained in this Lease and Lessee's compliance therewith, Lessee shall enjoy the quiet and useful benefit of the Premises during

the term of this Lease free from interruption by Lessor or any person or entity claiming through Lessor.

(c) Authority. Lessor has the power and authority to execute this Lease and, subject to the terms, conditions and covenants contained in this Lease, to convey to Lessee the quiet enjoyment and use of the Premises warranted in paragraph **2.06(b)**.

(d) Zoning. The Premises are, or as of the Commencement Date will be, properly zoned under the applicable municipal zoning ordinance for uses which include the use(s) specified in paragraph **2.05(a)**.

**Section 2.07      Subletting, Assignment Prohibited.**

(a) Subletting. Lessee shall not sublease the Premises nor any part thereof to any third party or parties without Lessor's prior written approval. Any sublease approved by Lessor shall be subject to all of the terms, conditions and covenants set forth in this Lease and in the Regulations, and any such sublease, to be effective, must so provide. Furthermore, any such sublease, to be effective, must irrevocably appoint Lessee as sublessee's sole and exclusive agent for the purposes of receiving any notices from Lessor or entering into any agreement or transaction with Lessor concerning the Premises. Lessee shall remain primarily liable for the performance of this Lease notwithstanding any sublease.

(b) Assignment. Lessee shall not assign or attempt to assign this Lease. Any attempt by Lessee to assign this Lease shall be voidable at Lessor's option.

**ARTICLE III**

**UNDERTAKINGS**

**Section 3.01      Undertakings Of Lessor.**

(a) Premises. Lessor shall deliver possession of the Premises to Lessee on the Commencement Date in "AS-IS" condition.

(b) Services. During the term of this Lease, and provided that Lessee is in compliance with all of the terms, conditions and covenants contained in this Lease, Lessor shall cause water (for drinking, lavatory and toilet purposes) and sewer service, to the extent available from city mains, and building-standard electrical connection(s) (all electrical service to the Premises to be separately metered and paid by Lessee) to be made available to the Premises. Lessor shall also cause utilities, heating and cooling and janitorial services to be made available to the Common Area. HVAC and all electrical wiring and plumbing, including lighting fixtures and controls, shall be installed (unless otherwise specified in this Lease), serviced, replaced and maintained by Lessee at Lessee's expense.

(c) Parking. Lessee shall provide for use by Lessee and its employees, customers, guests, invitees and licensees, twelve(12) non-designated parking spaces in the parking lot adjacent to the Building.

(d) Repair and Maintenance. During the term of this Lease, Lessor shall keep in good repair, at its expense, and shall not include as a component of Operating Expenses, the structural portions of the roof, foundation and exterior walls of the Building and any other building within the Project (exclusive of glass), and all electrical, plumbing, water, sewer and other utilities exterior to the Premises; provided, however, that Lessee shall be responsible for the payment of any repairs required solely as the consequence of any negligent act or omission by, or willful misconduct of, Lessee or any employee, guest, agent, customer, contractor, licensee, invitee or sublessee of Lessee. The cost of any such repair arising from any such negligent act or omission shall be paid by Lessee as Additional Rent. During the term of this Lease, Lessor shall further keep in good and functional condition and repair, and perform maintenance of, the Common Area, including Common Area HVAC and roof membrane(s). The cost of such repair and maintenance shall be included as a component of Operating Expenses. Lessor shall be responsible for normal wear and tear associated with Lessee's ordinary and reasonable use of the Premises for the conduct of its business. Nothing contained in this paragraph or elsewhere in this Lease shall preclude or prevent Lessor from making the repairs or performing the maintenance required of Lessee in paragraph **3.02(g)** should Lessee fail to do so after written demand; provided, however, that the cost of any such repairs and/or maintenance shall be paid by Lessee as Additional Rent.

Except to the extent expressly provided in this Lease, Lessor shall not be liable to Lessee for any damage suffered by Lessee or to any equipment, furnishings or other property of Lessee as a consequence of the Premises, the Common Area or any other part or appurtenance of the Building being improperly constructed or being or becoming out of repair, or arising from the leaking of gas, water, sewer or steam pipes or from electricity. Lessee shall immediately notify Lessor of any defective condition in or about the Building known to Lessee.

(d) No Liability or Abatement of Rent. Provided that Lessor shall have acted reasonably and in good faith, there shall be no abatement or reduction of Rent by reason of any of the services described in this Section not being performed by Lessor or continuously provided to Lessee. Lessor shall have no obligation or liability to Lessee as a consequence of delays beyond Lessor's reasonable control with respect to the delivery or availability of any of the foregoing services.

**Section 3.02 Undertakings Of Lessee.** Lessee shall pay Rent to Lessor when and as follows:

(a) Total Annual Rent. Total Annual Rent shall be the sum of the Minimum Annual Rent (determined as provided below) and the Annual Operating Expense Allowance (determined as provided in 1.01 (c)) Total

Annual Rent shall be adjusted when and as necessary to reflect changes in the Minimum Annual Rent and/or the Annual Operating Expense Allowance.

(i) Minimum Annual Rent. Lessee shall pay to Lessor the following Minimum Annual Rent (determined by multiplying the per rentable square foot rate for the applicable Lease Year, as stated below Minimum Annual Rent to increase beginning the second lease year by 3% and the third lease year by 3%.

<u>Lease Year</u>	<u>Rate Per Month</u>	<u>Minimum Annual Rent</u>
1	\$2500.00	\$30,000.00
2	\$2575.00	\$30,900.00
3.	\$2652.00	\$31,827.00

Minimum Annual Rent shall be a component of Total Annual Rent and shall be paid in monthly installments as provided in paragraph **3.02(a)(iii)**.

(ii) Annual Operating Expense Allowance. See 1.01(c)

Lessee's failure to pay to Lessor any installment of Monthly Rent within ten (10) days after Lessor's delivery of written notice to Lessee that such installment is delinquent shall constitute an event of default which shall entitle Lessor, without further notice to Lessee, to pursue any and all remedies specified in this Lease, at law or in equity. Lessee's obligation to pay Monthly Rent shall not be subject to abatement, set-off or deduction except to the extent expressly provided in this Lease.

(c) Upfit Contribution. Lessee shall **install at its own expense, window treatments, lighting, at its expense and any other improvements needed by lessee.**

(d) Other Additional Rent. Unless otherwise expressly provided in this Lease, any and all Additional Rent required to be paid by Lessee pursuant to the terms of this Lease shall be paid to Lessor not later than fifteen (15) days after Lessor's delivery of a statement or invoice therefore to Lessee. Lessee's failure to make timely payment of Additional Rent to Lessor when and as provided in this Lease shall constitute an event of default which shall entitle Lessor, without further notice to Lessee, to pursue any and all remedies specified in this Lease, at law or in equity. Lessee's obligation to pay Additional Rent shall not be subject to abatement, set-off or deduction except to the extent expressly provided in this Lease. Lessee's independent

covenant and obligation to pay Additional Rent shall survive any expiration or termination of this Lease.

(e) Security Deposit. N/A

(f) Tender. All payments required by this Article to be made to Lessor shall be delivered to Lessor at the address designated in **Section 6.02**, or at such other place as Lessor may hereafter designate in writing. Payment shall be made in a reasonable manner and form satisfactory to Lessor.

(g) Late Payment Charge, Attorneys' Fees. In the event Lessee shall fail to pay to Lessor any Rent or other fee, charge or assessment required to be paid by Lessee pursuant to the terms of this Lease within five (5) days after the date on which such payment is due, Lessor may, at its option, assess Lessee, and Lessee shall pay to Lessor, a late payment charge in an amount not to exceed four percent (4%) of the amount of the delinquent Rent or other charge or assessment. Lessee's failure to pay to Lessor any late payment charge within ten (10) days after Lessor's delivery of written demand for payment to Lessee shall constitute an event of default which shall entitle Lessor, without further notice to Lessee, to pursue any and all remedies specified in this Lease, at law or in equity. Lessor's assessment of a late payment charge pursuant to this paragraph shall not constitute liquidated damages and shall be in addition to, and not to the exclusion of, any other remedy available to Lessor under this Lease, at law or in equity.

In the event any collection action or proceeding is instituted by Lessor to collect any delinquent payment of Rent or other fee, charge or assessment required to be paid by Lessee pursuant to the terms of this Lease, including any late payment charge, Lessee shall be obligated for the payment of, and shall pay to Lessor, to the extent allowed by law, all costs of collection, including reasonable attorneys' fees in an amount not to exceed fifteen percent (15%) of the delinquent Rent and/or other fee, charge or assessment, including any late payment charge, if such collection is effectuated by an attorney. The parties agree that Lessee's covenants to pay Rent and other fees, charges and assessments pursuant to the terms of this Lease, including late payment charges, constitute evidence of indebtedness for purposes of this provision.

(h) Utilities. Commencing on the Commencement Date and continuing thereafter for the entire term of this Lease, Lessee shall assume sole responsibility for and shall pay, promptly and without delay, all electric utilities and a pro rata share of fire protection sprinkler service charges incurred in connection with Lessee's use of the Premises. Electric service to the Premises shall be separately metered. Lessee shall also assume sole responsibility for all payments associated with the installation of, and service charges for, telephone service and the cost and replacement of any expired light bulbs or fluorescent lights within the Premises.

(i) Repairs and Maintenance. Commencing on the Commencement Date and continuing thereafter for the entire term of this Lease, Lessee shall be responsible for all damages and required repairs resulting solely from the negligence or willful actions of Lessee, its employees, guests, customers, licenses and invitees. Lessee will repair and maintain the Premises, including, but not limited to, HVAC, interior walls, ceilings, flooring, Suite 400 entry door and hardware, at its sole cost and expense. In addition, Lessee shall keep the Premises in orderly and sanitary condition. Upon the expiration or termination of this Lease, Lessee shall deliver and return the Premises to Lessor, subject to the provisions of **Section 4.01**, in as good a condition as when the Premises were first received, ordinary wear and tear excepted.

(j) Acceptance of Premises. Lessee's taking of possession of the Premises shall constitute a conclusive presumption that Lessee has inspected the Premises, that Lessee has found the Premises to be Substantially Complete and in good condition, that the Premises are Substantially Complete and in good condition, that Lessee accepts the Premises "as-is", and that Lessor has made no representation or warranty as to the condition of the Premises.

(k) Observance of Laws. Lessee shall duly obey and comply with all municipal, county, state and federal laws, statutes, ordinances, rules, regulations and codes relating to the upfitting, use and occupancy of the Premises and the conduct of Lessee's business thereon. Lessee shall not store, place or keep upon the Premises, nor shall Lessee release or discharge on, in or upon the Premises or the Project or into any municipal drain or sewer, any Hazardous Substance in violation of any municipal, county, state or federal law, statute, regulation, ordinance, rule, regulation or code. As used herein, the term "Hazardous Substance" shall mean and include any and all petroleum, petroleum byproducts (including, without limitation, crude oil, diesel fuel, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge and all other hydrocarbons, regardless of specific gravity), natural or synthetic gas products, asbestos, PCB, biologic waste, contaminant or refuse or any other substance, material, waste, pollutant or contaminant deemed hazardous by any law, statute, ordinance, rule regulation or code. Lessee shall hold Lessor harmless from, any and shall indemnify Lessor for, any and all damages suffered by Lessor as a consequence of Lessee's failure to comply with this paragraph.

#### **ARTICLE IV**

##### **ALLOCATED RIGHTS AND OBLIGATIONS**

###### **Section 4.01 Alterations and Improvements.**

(a) N/A

(b) Contractor and Materialmen's Liens and Claims. Any upfit, finishing, alteration and/or improvement of the Premises by Lessee, including any Lessee Upfit, shall be made, if at all, at Lessee's sole

risk and expense. Lessee shall not permit any contractor's lien or materialmen's lien to attach to the Premises, the Building or the Project. Lessee shall indemnify and hold Lessor harmless from any and all damages incurred by reason of any claim or lien filed or asserted against the Premises the Building and/or the Project by any unpaid contractor or materialman, and shall reimburse and pay to Lessor, as Additional Rent, any and all amounts paid by Lessor to discharge any such claim or lien; provided, however, that Lessee shall have the right to contest in good faith by legal proceedings or otherwise any lien asserted against the Premises, the Building and/or the Project by any contractor or materialman without cost to Lessor. In the event Lessee decides to contest any such claim or lien, Lessee shall post with Lessor a good and sufficient surety bond in an amount not less than one hundred twenty-five percent (125%) of the amount of the claim or lien contested. The release of such funds shall be conditional upon Lessee satisfying the claim or lien as well as all interest and costs thereon, including reasonable attorneys' fees.

**Section 4.02 Fixtures and Equipment.** Upon the expiration or termination of this Lease, other than a termination arising upon any event of default by Lessee, Lessee may remove from the Premises all trade fixtures and equipment installed by it. Lessor shall, however, have and retain ownership and possession of any and all furniture, fixtures and equipment installed by Lessor prior to the Commencement Date. Lessee shall repair any and all damage to the Premises that may be caused by the installation or removal of such trade fixtures and equipment. Lessee shall surrender the Premises, subject to the provisions of **Section 4.01**, broom clean and in as good order and condition as the same were in at the beginning of the term of this Lease, ordinary wear and tear and damage by fire or other casualty beyond the control of the Lessee excepted. All partitions or other additions or improvements to the Premises shall, however, be and remain the property of Lessor.

**Section 4.03 Lessee's Assumption of Risk and Indemnity.** Lessee hereby assumes any and all risk of injury and damage to persons or property that may occur by reason of any act or negligence of Lessee or any officer, agent, employee, contractor, servant, invitee, guest or sublessee of Lessee. Lessee shall indemnify and hold Lessor harmless from and against any and all claims, losses, costs, expenses, liabilities and damages suffered by Lessor, including, without limitation, reasonable attorneys' fees to the extent permitted by law, in any manner arising out of, or resulting from, (a) Lessee's use of the Premises, the Common Area, the Building and/or the Project, or any part thereof, (b) any activity, work or other thing done, permitted or suffered by Lessee in or about the Premises, the Common Area, the Building and/or the Project, or any part thereof, (c) any breach or default by Lessee in the performance of any monetary or other obligation of Lessee pursuant to the terms of this Lease, and/or (d) any act, omission, negligence or willful misconduct of Lessee or any officer, agent, employee, contractor, servant, invitee, guest or sublessee of Lessee. In the event any action or proceeding shall be brought against

Lessor as a consequence of any of the foregoing, Lessee shall, upon written notice and demand from Lessor, defend the same through counsel selected by Lessee's insurer or other counsel acceptable to Lessor. Lessee further assumes all risk of, and waives as against Lessor and all claims and causes of action for, any damage or loss to its property or injury or death to any person in, on, or about the Premises, the Common Area, the Building and/or the Project from all causes except those for which the law imposes liability on Lessor regardless of any attempted waiver thereof. The provisions of this paragraph shall survive any expiration or termination of this Lease.

**Section 4.04 Lessee's Insurance Requirements.** At all times during the term of this Lease, Lessee, at its sole cost and expense, shall keep or cause to be kept for the mutual benefit of Lessor, Lessor's mortgagee, Lessor's managing agent and Lessee (with appropriate cross-liability endorsements) public liability and property damage insurance with combined single limit coverage of at least \$1,000,000.00, which policy(ies) shall insure against all liability of Lessee, Lessee's authorized representatives, and anyone for whom Lessee is responsible arising out of or in connection with Lessee's occupancy and use of the Premises, and shall, to the extent permitted by law, insure Lessee's performance of the indemnity provisions contained in this Lease. Each such policy shall be issued by a company licensed to do business in North Carolina. Lessee shall also insure its personal property located upon the Premises, and shall neither have nor make any claim against Lessor for any loss or damage to the same, regardless of the cause thereof. The proceeds from any such policy covering personal property shall be used by Lessee for the replacement of Lessee's personal property.

Prior to taking possession of the Premises and thereafter, Lessee shall deliver to Lessor, not less than ten (10) business days prior to the renewal date thereof, a copy of each original policy required by this Section or a satisfactory certificate thereof. Each such policy shall be non-assessable and shall contain language, to the extent obtainable, (a) that to the extent permitted by law, any loss shall be payable notwithstanding any act or negligence of Lessor or Lessee that might otherwise result in forfeiture of the insurance, (b) that the policy is primary and non-contributing with any insurance that Lessor may carry, and (c) that the policy cannot be cancelled or changed except upon thirty (30) days prior written notice to Lessor.

Notwithstanding any provision in this Lease to the contrary, and to the extent permitted by law, Lessor hereby waives and releases unto Lessee and its successors and assigns, and Lessee hereby waives and releases unto Lessor and its successors and assigns, any and all rights to claim or assert any claim for damages resulting from any injury, loss, cost or damage suffered by any person or to the Premises which is occasioned by fire, explosion, accident, occurrence or condition in, on or about the Premises or any other casualty; provided, however, that the full amount of such injury, loss, cost or damage has been paid to Lessor, Lessee or any other person, firm or corporation, under the terms

of any fire, extended coverage, public liability or other policy of insurance. All policies of insurance carried or maintained pursuant to this Lease shall contain or be endorsed to contain a provision whereby the insurer waives all rights of subrogation against either Lessor or Lessee, as applicable.

**Section 4.05 Casualty Loss.** In the event the Premises are wholly destroyed and/or rendered untenable by fire or other casualty not the result of any wrongful or negligent act or omission of Lessee, either party may, by written notice delivered to the other party not later than thirty (30) days after the date of such casualty, terminate this Lease. In the event of any termination of this Lease pursuant to this Section, the installment of Monthly Rent paid for the month in which the casualty occurred shall be prorated as of the date the casualty occurred and any portion of the prorated installment of Monthly Rent paid by Lessee and applicable to that portion of the month following the casualty shall be refunded to Lessee.

In the event the Premises are damaged by fire or other casualty, but not wholly destroyed and/or rendered untenable, but Lessee is nevertheless reasonably required to discontinue its business and/or operations in the Premises for any period prior to the completion of repairs and restoration, payment of Monthly Rent shall abate during such period. In the event Lessee is able to continue its business and/or operations in the Premises during the period of repair and restoration, Rent shall be adjusted and prorated, if at all, in the same proportion that the total unusable area of the Premises, if any, bears to the total area of the Premises. Lessor shall not, in any event, be liable for any loss, injury or damages, consequential or otherwise, suffered by Lessee. In the event the damage to the Premises is such that Lessor concludes that repair and restoration of the Premises cannot be completed within one hundred fifty (150) days after the date of the casualty, Lessor shall so notify Lessee, in writing, not later than sixty (60) days after such fire or other casualty, and either party may thereafter terminate this Lease by written notice delivered to the other party not later than thirty (30) days after the date on which Lessor delivers written notice to Lessee that repair and restoration cannot be completed within one hundred fifty (150) days. If the Premises are damaged by cause due to any fault or neglect of Lessee, its agents, employees, invitees, or licensees, Lessor may repair such damage without prejudice to any subrogation rights of Lessor's insurer, and there shall be no apportionment or abatement of any Rent.

**Section 4.06 Condemnation.** In the event the Premises shall be taken for public use by any city, state, county, federal or other public authority, or by any corporation or entity having the power of eminent domain, this Lease shall terminate on the date on which possession of the Premises is taken for public use, or, at the option of Lessee, on the date on which the Premises shall become unsuitable for Lessee's business by reason of such taking; provided, however, that if only a part of the Premises are so taken, any termination of this Lease shall be at Lessee's option only. In the event a partial taking of the

Premises occurs and Lessee elects not to terminate this Lease, all Rent and other costs and expenses due hereunder shall be reduced proportionally. Such reductions shall be effective as of the date possession is taken for public use. Lessor shall have the sole and exclusive right to participate in any award for a public or private taking; provided, however, that Lessee shall be permitted to apply for a condemnation award based on the value of any trade fixtures which are the property of Lessee and which are taken for public purposes, as well as for any relocation assistance that may be available.

**Section 4.07 Subordination and Attornment.** Lessee agrees that, subject to the requirements of Lessor's mortgagee, this Lease may be subordinate or superior to a mortgage heretofore or hereafter executed by Lessor encumbering the Premises, the Building, the Common Area and/or the Project. Lessee shall, upon request, execute any such document or instrument as may reasonably be required from time to time by Lessor's mortgagee to make this Lease superior or subordinate to any mortgage. Lessee further agrees to attorn to Lessor's mortgagee provided that such mortgagee shall agree not to disturb Lessee's possession of the Premises during the term of this Lease so long as Lessee is in compliance with all material terms, conditions and covenants set forth in this Lease. Lessor consents to Lessee's execution of any subordination, attornment and non-disturbance agreement that may reasonably be requested by Lessor's mortgagee. Lessee further agrees to execute and deliver to Lessor or Lessor's mortgagee, not later than five (5) days after receipt of a written request therefore, and as often as requested, an estoppel certificate setting forth such information concerning this Lease as may reasonably be requested.

If, in connection with financing obtained by Lessor with respect to the Premises, the Building, the Common Area and/or the Project, Lessor's mortgagee or other lender shall request that Lessee consent to reasonable modifications of this Lease as a condition to such financing, Lessee will not unreasonably withhold, delay or defer its consent provided that such modifications do not increase Lessee's monetary obligations hereunder, extend or reduce the term of this Lease or adversely affect to any material extent the leasehold interest granted to Lessee herein or any other material term of this Lease.

## **ARTICLE V**

### **DEFAULT, TERMINATION, OTHER REMEDIES AND ABANDONMENT**

**Section 5.01 Default.** Lessee's failure to abide by any of the terms and conditions contained in this Lease, or Lessee's failure to perform fully and faithfully all of its covenants as contained in this Lease, shall constitute events of default. The following acts, omissions or circumstances shall also constitute events of default: (a) Lessee's insolvency as defined in the Uniform Commercial Code of North Carolina, (b) Lessee's bankruptcy, (c) Lessee's subjection to a receivership, (d) Lessee's assignment of assets for the benefit of creditors, and (e) Lessee's failure to maintain its corporate standing

in the state of its formation or to maintain its qualification to do business in North Carolina.

**Section 5.02 Termination And Other Remedies.** Upon the occurrence of any event of default, Lessor shall have the right to re-enter and take possession of the Premises and, at its option, to terminate this Lease. At Lessor's option, Lessor may avail itself of the following additional or alternative remedies: (a) all dispossessory and eviction rights granted by law, (b) all rights to repossess and seize collateral granted under the Uniform Commercial Code, (c) all rights of claim and delivery, (d) all rights of offset, (e) all rights given by law for damages, (f) all rights conferred by law or equity for injunction relief, and (g) all other rights conferred by this Lease or which exist at law or in equity. Lessee's covenants to pay Rent shall not abate upon the termination of this Lease by reason of default by Lessee. Lessee's obligation to pay Rent shall survive and continue notwithstanding termination by reason of any event of default by Lessee and Lessor may recover any and all such Rent from Lessee. Except as otherwise provided in paragraphs **3.02(a), (b), (c), (d) and (e)**, before any event of default shall become effective so as to give Lessor the rights enumerated in (a), (b) or (c) hereinabove, as well as the right of termination, Lessor shall give Lessee thirty (30) days prior written notice of default (which notice shall state the event of default with specificity) so as to give the Lessee an opportunity to cure.

**Section 5.03 Abandonment.** In the event Lessee shall not have paid any installment of Monthly Rent, any Annual Operating Expense Adjustment or any Additional Rent within thirty (30) days after its due date, and Lessee or its agents shall not have been present on the Premises and conducting business during that period of time, it shall be conclusively presumed (and Lessee so agrees) that Lessee has abandoned the Premises, whether or not Lessee has left behind any property belonging to it. In such event, Lessor may take possession of the Premises and its contents without process of law and without liability to Lessee for damages, trespass, unlawful entry or the like. Lessor may, at its option, declare this Lease terminated. The rights conferred upon Lessor hereunder shall be in addition to and not exclusive of all other rights and remedies provided in this Lease and by law.

## **ARTICLE VI**

### **MISCELLANEOUS**

**Section 6.01 Brokers' Commissions.** The parties acknowledge and agree that there is no commission due any real estate salesman, broker or firm as a consequence of the parties execution of this Lease with the exception of such commission(s) as may be due           N/A          . Lessor shall be responsible for payment of such commission(s).

Lessee acknowledges and agrees that the term of this Lease is a material consideration and inducement to Lessor to pay each broker's commission with respect to this Lease as provided above, and that it is

Lessor's intent and expectation that any such broker's commission shall be amortized over the term of this Lease. Consequently, in the event of any early termination of this Lease other than as a consequence of an uncured default by Lessor, Lessee shall be liable to Lessor for payment of the entire amount of the unamortized portion of any broker's commission (based on a full amortization of such broker's commission over a sixty (60) month period beginning on the Commencement Date) paid pursuant to the provisions of this Section, and Lessee shall pay the full amount of any unamortized broker's commission to Lessor not later than twenty (20) days after the date of Lessor's delivery to Lessee of a written statement of the amount of any such unamortized broker's commission and demand for payment.

**Section 6.02 Parties.** The terms, conditions and covenants contained in this Lease shall bind and inure to the benefit of each of the parties and their respective heirs, successors, assigns, executors, administrators and other legal representatives.

**Section 6.03 Notice.** All notices and statements required or permitted by this Lease to be given to the parties or to either of them shall be deemed sufficiently given and delivered when made in writing and personally delivered to the parties or deposited in the United States mail, first class, postage prepaid and addressed to the appropriate party(ies) at the following addresses:

If to Lessor: Chatham Mills Development Corp  
480 Hillsboro Street  
Pittsboro, North Carolina 27312  
Attention: Mr. Clyde T. Roberts

If to Lessee: Town of Pittsboro  
P.O. Box 759  
635 East Street  
Pittsboro, North Carolina 27312  
Attention: Mr. Bryan Gruesbeck

Any such notice or statement delivered by personal delivery shall be deemed delivered and received effective as of the first business day after the date of personal delivery. Any notice or statement delivered by United States mail as provided above shall be deemed delivered when deposited in the United States mail and shall be deemed received on the third business day after the date of deposit in the United States mail as provided above.

**Section 6.04 Waiver.** No term, condition or covenant contained in this Lease shall be deemed waived by any act, omission or forbearance, or any series of same, by either Lessor or Lessee. The only waivers that shall be effective under this Lease shall be those which

are in writing and signed by the party to be charged. No prior notice of non-waiver need be given by a party who has previously forborne from exercising a right hereunder.

**Section 6.05**     **Amendment, Modification And Release.**     This Lease shall not be amended or modified, nor shall any right created or conferred hereunder be released, except by a writing signed by the party to be charged.

**Section 6.06**     **No Joint Venture.**     Nothing in this Lease shall constitute or be construed to constitute a joint venture between Lessor and Lessee.

**Section 6.07**     **No Third Party Beneficiaries.**     With the exception of those persons contemplated by **Section 6.02**, neither party intends to confer any rights under this Lease upon any third party. The benefits and burdens of this Lease shall accrue to and bind only the parties hereto and standing to enforce this Lease shall rest exclusively in such parties.

**Section 6.08**     **Survival.**     Notwithstanding the natural expiration of the term of this Lease or its earlier termination as provided herein, the rights, duties and obligations conferred and imposed under Sections **3.02, 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07** and **6.01**, and under **ARTICLE V**, shall survive and continue to bind the parties until every pre-expiration or pre-termination obligation, promise or claim arising out of the breach thereof is fully paid, performed settled or otherwise disposed of.

**Section 6.09**     **Complete And Exclusive Agreement.**     Lessor and Lessee agree and understand that all prior negotiations, representations, understandings and agreements are merged into and do not survive the execution of this Lease. The parties expressly agree that this written Lease, including exhibits, is the sole, complete and exclusive statement of the terms of the parties' agreement, and that no other negotiations, representations, understandings, or agreements exist, except as may appear herein. Furthermore, the parties agree that this written Lease, being the sole, complete and exclusive statement of the terms of the parties' agreement, is exclusive of any course of performance, course of dealing or usage of trade.

**Section 6.10**     **Governing Law.**     The legal effect and consequence of this Lease shall be determined in accordance with the laws of the State of North Carolina.

**Section 6.11**     **Exhibits.**     Each exhibit attached or appended to this Lease is fully incorporated herein.

**Section 6.12**     **Notice Of Transfer.**     Lessor shall give Lessee thirty (30) days prior written notice of any change in or transfer of Lessor's interest in the Premises.

**Section 6.13 Severability.** Should any provision of this Lease be declared unconstitutional or void or unenforceable, such provision shall be severed from this Lease and the surviving terms, conditions and obligations shall continue in full force and effect; provided, however, that if the severed portion is a material term, this Lease shall terminate.

**IN WITNESS WHEREOF,** each party has caused this Lease to be duly executed effective as of the day and year first above written.

**LESSOR:**

**Chatham Mills Development Corp,**  
a North Carolina corporation

(CORP. SEAL)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_ personally came before me this day and acknowledged that (s)he is the \_\_\_\_\_ of., a North Carolina corporation, and that (s)he, as \_\_\_\_\_, being authorized to do so, executed the foregoing for and on behalf of the corporation. Witness my hand and official seal or stamp, this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_ (SEAL)

**SIGNATURES CONTINUE ON NEXT PAGE**

**LESSEE:**

**Town of Pittsboro,  
A North Carolina Municipality**

(CORP. SEAL)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_ personally came before me this day and acknowledged that (s)he is the \_\_\_\_\_ of, and that (s)he, as \_\_\_\_\_, being authorized to do so, executed the foregoing for and on behalf of the corporation. Witness my hand and official seal or stamp, this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_ (SEAL)

**SIGNATURE PAGES CONCLUDE**

**EXHIBIT A**

**THE PREMISES**

Attach drawing of premises from Hobbs Architects