

# OPTION AND GROUND LEASE AGREEMENT

TowerNorth Development Site # MA-032

Site Name: COTUIT

## OPTIONOR/LANDLORD:

Name: Cotuit Fire District

Address: PO BOX 1475  
Cotuit, MA 02635

E-mail address: cotuitwater@verizon.net

Phone number: 508-428-2687

## OPTIONEE/TENANT:

TowerNorth Development, LLC, a Vermont  
limited liability company

95 Ryan Drive, Suite 1  
Raynham, MA 02767

E-mail address: bstern@clinellc.com

Phone number: 215.803.4858

## SITE INFORMATION

Site Location: 414 Main Street, Cotuit MA 02635

County: Barnstable

Parcel ID #: COTU000038000000000004

Coordinates: Latitude: 41.629718 Longitude: -70.442035

## EXHIBITS

1. Parent Parcel:
2. Existing Water Tank Tenants
3. Leasehold and Easement Premises:
4. Memorandum of Lease:

See Exhibit "A" attached hereto and made a part hereof.  
See Exhibit "A-1" attached hereto and made a part hereof.  
See Exhibit "B" attached hereto and made a part hereof.  
See Exhibit "C" attached hereto and made a part hereof.

## OPTION INITIAL TERM

Option Commencement Date:

Option Term:

Option Consideration:

MAY 1st, 2017

Twelve (12) months

Five Thousand Dollars (\$5000.00) (non-refundable) paid  
herewith

## OPTION EXTENSION TERM(S)

Option Extension Commencement Date:

Number of Option Extension Terms:

Duration of Each Option Extension Term:

Consideration for Option Extension Terms:

The date following the preceding Option Initial Term  
or Extension

Two (2) – Upon notice and payment of option  
consideration to Optionor prior to expiration of prior  
Option term

Twelve (12) months

Five Thousand Dollars (\$5000.00) (non-refundable)

## LEASE TERMS

Lease Commencement Date: Upon notice of exercise by Optionee/Tenant at any time in the Option  
Term

Lease Primary Term: Five (5) years

Lease Renewal Term(s): Five (5) renewal terms of Five (5) years each at the option of Tenant.  
Automatic renewal terms unless Landlord is provided written notice by  
Tenant of its election not to renew delivered at least sixty (60) days  
prior to the expiration of the then existing term.

termination of this Agreement.

These representations and warranties of Optionor shall survive the exercise of the Option and the termination or expiration of the term of this Agreement.

**Section 1.04 Inspections and Investigations.** Optionor hereby grants to Optionee, its officers, agents, employees and independent contractors the right and privilege to enter upon the Premises at any time during the Option Term upon reasonable prior advance notice to Landlord, to perform or cause to be performed such investigations of the Premises it requires, including without limitation, test borings of the soil, environmental audits, engineering studies and surveys of the Premises. Optionor shall provide Optionee with any necessary keys or access codes to the Premises if needed for ingress and egress, and Optionee shall not unreasonably interfere with Optionor's use of the Premises in conducting these activities. Prior to entry upon the Premises Tenant shall provide Landlord evidence of adequate liability insurance as set forth in the Lease and Tenant shall indemnify, defend and hold harmless Landlord from and against and loss, injury, cost (including reasonable attorneys' fees), damage and liability of any kind or nature arising from Optionee's exercise of the foregoing rights.

**Section 1.05 Further Acts.** Optionor shall cooperate with Optionee, at no monetary cost to Optionee, in executing any documents reasonably necessary to protect Optionee's rights under this Option or Optionee's use of the Premises and to take such action as Optionee may reasonably require to effect the intent of this Option. Without limiting the foregoing, Optionee or Optionee's agent as Optionor's agent agrees, without monetary cost, to promptly execute or file applications on behalf of Optionor, prepared by Optionor, with federal, state and local governmental authorities which applications relate to Optionee's intended use of the Premises including but not limited to land use and zoning applications.

[Remainder of page left intentionally blank – Lease Terms follow]

As used in this Lease, the term "Sublease" or "sublease" shall include any arrangement by which any party utilizes any portion of any of the Tower Facility whether technically a sublease, license, occupancy agreement, concession or any other type of use agreement whatsoever and the word "Subtenant" or "subtenant" shall mean the party occupying under any such Sublease.

**Section 2.01 Exercise of Option.** Upon the tender of written notice of Optionee's intent to exercise the Option which notice shall be delivered prior to the expiration of the Option Term, the terms of this Agreement applying to the lease of the Premises shall be in full force and effect and shall govern the relationship of the parties and this Agreement shall thereafter be referred to as the "Lease" or "Lease Agreement", and, for the avoidance of doubt, shall include the terms of the "Agreement" above, and Optionor shall thereafter be referred to as Landlord and Optionee shall thereafter be referred to as Tenant. The date specified in the written notice to exercise the Option (which shall be a date no later thirty (30) days after the date of delivery of such notice) shall constitute the commencement date of the Lease ("Commencement Date").

**Section 2.02 Premises and Term.** In consideration of the obligation of Tenant to pay rent as hereinafter provided and in consideration of the other terms, provisions and covenants hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord, the Leasehold Premises and the Easement, to have and to hold the same for a primary term as set forth on the first page of this Agreement (the "Primary Term") commencing on the Commencement Date.

**Section 2.03 Renewal Options.** Landlord hereby grants to Tenant the right to extend the term of this Lease Agreement, at Tenant's sole option, for the number of renewal terms each for the number of years as set forth on the first page of this Lease Agreement (each a "Renewal Term" and, together with the Primary Term, the "Term"), to begin upon the expiration of the Primary Term or each preceding Renewal Term, as applicable. All terms, provisions and covenants of this Lease Agreement shall apply to the Renewal Terms as to the Primary Term. Each Renewal Term shall commence automatically unless Tenant delivers Landlord written notice of Tenant's election not to renew at least sixty (60) days prior to the expiration of the then existing Term. in which case the Term shall expire at the end of such then existing Term.

**Section 2.04 Rent.**

- (a) Tenant shall pay rent (the "Base Rent") to Landlord during the first year of the Primary Term at the initial rate of Forty-Two Thousand Dollars (\$42,000.00) annually commencing on the Commencement Date.

Base Rent shall increase by three percent (3%) compounded annually, commencing on the first (1st) anniversary of the Commencement Date and continuing on each subsequent anniversary thereafter through the Primary Term and all Renewal Terms.

- (b) Base Rent payments shall be made by Tenant to Landlord in equal monthly installments in advance on the first day of each month without notice, offset or deduction in lawful money of the United States of America, at such address as designated herein or as Landlord may hereafter otherwise instruct Tenant in writing.

having been filed and shall thereafter to diligently and expeditiously complete the Tower Facility and obtain a certificate of occupancy (or equivalent). The Tower shall be capable of supporting public safety and ancillary equipment. The Tower Facility will be serviced using an existing gravel access road that enters the Parent Parcel from Main Street and is currently utilized by the Existing Water Tank Tenants. The Tower Facility shall be constructed consistent with the terms of the Landlord's RFP and the RFP Response; provided that the Landlord agrees not to unreasonably withhold or delay its consent to any modifications to the Tower Facility required by any governmental or quasi-governmental authorities (including without limitation, the Cape Cod Commission) in connection with the issuance of the Permits. Tenant shall be solely responsible, at its cost, for bringing utilities to the Leasehold Premises, including a multi gang meter bank capable of servicing all Tower Facility users and any emergency services equipment the Landlord shall desire to install on the Tower Facility.

The Tower Facility shall be constructed, at Tenant's sole cost, in a good and workmanlike manner in compliance with all applicable laws. At all times during the Term, Tenant, at its sole cost, shall maintain, repair and replace the Premises and all aspects thereof, including, without limitation, the Tower Facility, so as to ensure that the same are always in good, structurally sound, safe, secure, clean and attractive condition and in compliance with all applicable laws.

**Section 2.06** Tenant shall have access to the Premises 7 days a week, 24 hours a day for all of the purposes set forth in Section 2.05 hereof. As part of the Tower Facility, Tenant shall also construct, at its sole cost, such enclosures and/or fences as Tenant reasonably determines to be necessary to secure its improvements, subject to Landlord's prior written approval of all plans therefor. If at any time during the Term of this Lease Agreement, the Federal Aviation Administration, Federal Communications Commission, Cape Cod Commission, or other governmental agency changes its regulations and requirements, or otherwise takes any action (other than as a result of Tenant's negligence or willful misconduct), the result of which prohibits or materially inhibits Tenant's use of the Premises, or the Tower Facility, for the purposes originally intended by Tenant, Tenant shall have the right to cancel and terminate this Lease Agreement upon no less than ninety (90) days written notice to Landlord.

**Section 2.07** Access and Utilities.

- (a) Tenant shall have the right, within the Premises and Easement, to install utilities, at Tenant's expense, and to improve present utilities on the Premises (including but not limited to the installation of emergency power generators). In the event that utilities necessary to serve the equipment of Tenant or the equipment of Tenant's licensee(s) or sublessee(s) cannot be located within the Premises, Landlord agrees to cooperate with Tenant and to act reasonably in allowing the location of utilities on the Parent Parcel without requiring additional compensation from Tenant or Tenant's licensee(s) or sublessee(s). Landlord shall, upon Tenant's request, execute a separate written easement to the utility company providing the service or Tenant in a commercially reasonable form which may be filed of record evidencing this right.
- (b) Landlord represents and warrants to Tenant that Tenant shall at all times during this Lease Agreement enjoy ingress, egress, and access from the Premises to an open and improved public road which presently exists and which shall be adequate to service the Premises. If no such

Premises unless arising from the conduct of Tenant. Tenant shall also be responsible for any personal property or ad valorem taxes related to any improvements owned by Tenant located on the Premises, including but not limited to, the Tower, equipment shelters or generators. Notwithstanding the foregoing, Tenant shall be responsible for personal property taxes for any equipment of Tenant or its subtenants on the Premises. If Landlord fails to make any payments required under this Lease Agreement, or breaches any other obligation or covenant under this Lease Agreement, Tenant may (without obligation), after providing ten (10) days written notice to Landlord, make such payment or perform such obligation on behalf of Landlord. The full amount of any payments so made or costs so incurred by Tenant (including any reasonable attorneys' fees incurred in connection with Tenant performing such obligation) shall be paid by Landlord to Tenant with interest at the statutory rate thereon. If Landlord shall fail to reimburse such sums to Tenant within ten (10) days after written demand therefor, Tenant shall have the right to deduct such amounts, together with interest at the statutory rate, as an offset from rents then due or thereafter coming due under this Lease Agreement.

- (c) Landlord shall not do or permit anything that will interfere with or negate any special use permit or approval pertaining to the Premises or cause any Tower on the Premises to be in nonconformance with applicable local, state, or federal laws. Landlord shall, with monetary cost, cooperate with Tenant in any effort by Tenant to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities. Landlord agrees to execute any necessary applications, consents or other documents as may be reasonably necessary for Tenant to apply for and obtain the proper zoning approvals required to use and maintain the Premises and the tower site.
- (d) To the best of Landlord's knowledge and subject to confirmation by Tenant during the Option Term, Landlord has complied with and will continue to comply with all environmental, health, and safety laws with respect to the Parent Parcel.
- (e) To the best of Landlord's knowledge, and subject to confirmation by Tenant during the Option Term, all utilities required for the operation of the Tenant's improvements enter the Parent Parcel through adjoining public streets or, if they pass through an adjoining private tract, do so in accordance with valid public easements.
- (f) Landlord has no actual (as opposed to constructive) knowledge of any fact or condition that could result in the termination or reduction of the current access from the Parent Parcel to existing highways and roads, or other utility services serving the Parent Parcel. To the best of Landlord's knowledge, and subject to confirmation by Tenant during the Option Term, the Parent Parcel abuts on and has direct vehicular access to a public road, or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the Parent Parcel, and access to the Parent Parcel is provided by paved public right-of-way..
- (g) With respect to the Premises, except as disclosed in writing to Tenant prior to the execution hereof: (i) there currently exist no leases, subleases, licenses, concessions, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the of Premises; (ii) there are no outstanding options or rights of first refusal to purchase the Premises or any portion thereof or interest therein; and (iii) there are no parties (other than Landlord) in possession of the Premises and the Existing Water Tank Tenants.



of Tenant's personal property and fixtures, including any sublease, attached or otherwise pertaining to the real property described herein, and furthermore consents to the exercise by Tenant's mortgagee of its rights of foreclosure with respect to its lien and security interest. Landlord agrees to recognize Tenant's mortgagee as Tenant hereunder upon any such exercise by Tenant's mortgagee of its rights of foreclosure. Any subsequent assignee of the Tenant's leasehold interest from Tenant's mortgagee shall be subject to the prior written approval of Landlord as set forth in Section 2. 09 above.

- (b) Upon any default of this Lease Agreement by Tenant and termination of this Lease Agreement, or upon any foreclosure of Tenant's leasehold interest herein, Landlord agrees to recognize the rights of all Subtenants and will permit each of them to remain in occupancy of its premises within the Premises notwithstanding any default and termination hereunder by Tenant so long as each such respective Subtenant is not in default under its Sublease covering its premises and agrees in writing to attorn to Landlord and thereafter perform all of its obligations for the direct benefit of Landlord, and Landlord agrees to execute such documents as any such Subtenant might reasonably require, including customary subordination, non-disturbance and attornment agreements and/or Landlord recognition agreements, to further memorialize the foregoing, and further agrees to use reasonable efforts to also cause its mortgage lenders, if any, to similarly acknowledge, in writing, the Subtenants' right to continue to occupy its premises as provided above.
- (c) Provided that Tenant's mortgagee has delivered written notice to Landlord of the existence of its Leasehold Mortgage and its address for notice purposes, Landlord hereby agrees to give Tenant's mortgagee written notice of any breach or default of the terms of the Lease Agreement by Tenant prior to exercising any right or remedy against Tenant for such default (including the right of termination) and Tenant's mortgagee shall have the right, to the same extent, for the same period as set forth herein and with the same effect, as the Tenant, to cure or correct any such breach or default whether the same shall consist of the failure to pay Rent or the failure to perform any other obligation, and Landlord agrees to accept such payment or performance on the part of the Tenant's mortgagee as though the same had been made or performed by the Tenant. In the case of a non-monetary breach or default, as to which the Tenant's mortgagee must obtain possession of the Premises to effectuate the cure, Tenant's mortgagee shall have an additional ninety (90) days within which to effectuate the cure.
- (d) Landlord hereby (i) agrees to subordinate any lien or security interest which it may have which arises by law or pursuant to the Lease Agreement to the lien and security interest of Tenant's mortgagee in the collateral securing all indebtedness at any time owed by Tenant to such mortgagee as to the Premises (the "Collateral"), and (ii) furthermore agrees that upon an event of default under the loan documents between Tenant and Tenant's mortgagee or the Lease Agreement, Tenant's mortgagee shall be fully entitled to exercise its rights against the Collateral prior to the exercise by the Landlord of any rights which it may have therein, including, but not limited to, entry upon the Premises and removal of the Collateral free and clear of the Landlord's lien and security interest, provided that such mortgagee shall first cure any default or breach of this Lease by Tenant and shall indemnify, defend and hold harmless Landlord and all Landlord Parties (herein defined) from any loss, injury, cost or damage resulting from such entry and removal.

Tenant and all other persons and property from the Premises and may dispose of such property at the cost of and for the account of Tenant without Landlord being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby; Landlord may decline to retake possession of the Premises and may sue for the Rent as the same becomes due; or Landlord may sue for damages. Landlord may sue from month to month for the damages which accrue in accordance with this subsection; or Landlord may seek injunctive relief. All such rights and remedies shall be cumulative.

Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

In the event of any such default or breach by Tenant under this Lease, Tenant will reimburse Landlord for all reasonable expenses and reasonable attorneys' fees incurred by Landlord (whether or not suit is commenced) in collecting any amount due from Tenant, enforcing any obligation of Tenant hereunder, curing any default of Tenant or in obtaining possession of, or in re-letting the Premises.

**Section 2.17 Remedies Upon Failure to Cure a Default.** Should the defaulting party fail to cure a default under this Lease Agreement prior to the expiration of any applicable notice and cure period as aforesaid, the other party shall have all remedies available either at law or in equity, including the right to terminate this Lease Agreement. In the event Landlord elects to terminate this Lease Agreement due to a default by Tenant, it shall continue to recognize the Subtenants rights as set forth hereinabove in Section 2.14 (b).

**Section 2.18 Notices and Payments.** Any notice, document permitted to be delivered or remitted hereunder or by law shall be deemed to be delivered or remitted, whether actually received or not, when deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, addressed to the parties hereto at the respective addresses set out on the first page of this Agreement.

**Section 2.19 Recording.** A short-form memorandum of this Lease Agreement (upon exercise of the Option) may be recorded at Landlord's or Tenant's option in substantially the form set forth on the attached Exhibit "E" and the parties agree to execute and deliver the same in recordable form. Upon the expiration or earlier termination of this Lease, Tenant shall execute and record a notice of termination of Lease with the appropriate Registry of Deeds, failing which Landlord is hereby appointed Tenant's attorney-in-act (coupled with an interest) for the purpose of executing and recording any document desired by Landlord to evidence such termination or expiration of this Lease Agreement.

**Section 2.20 Attorneys' Fees.** If there is any legal proceeding between Landlord or Tenant arising from or based on this Lease Agreement, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements, incurred by such prevailing party in such action or proceeding and in any appeal in connection therewith.

Sublease; and any other information reasonably requested by Landlord. All Subleases shall provide that they are subject and subordinate to this Lease and that, at Landlord's written election, if a default shall occur under this Lease, the Subtenants thereunder shall be obligated to pay the rent and other consideration thereunder directly to Landlord.

**Section 2.24 Guarantee or Bond:** The Tenant's obligation to construct and complete the Tower Facility and to remove the same (at Landlord's option) at the expiration or earlier termination of this Lease, shall be secured by a bond issued by a highly-rated surety or by a parent guaranty, to be delivered contemporaneously with the delivery by Tenant of the exercise of the Option. In the event the Tenant elects to provide a parent guaranty, the financial creditworthiness of the guarantor shall be subject to the approval of the Landlord, such approval not to be unreasonably withheld or delayed.

**Section 2.25 Compliance with Laws:** The Tenant shall ensure that its use of and operations on the Premises (including, without limitation, on the Tower Facility and the easement areas) neither Tenant nor any of its employees, agents, contractors, subtenants or invitees, will cause or nor will Tenant allow (a) the emission of any noise at volumes which may result in violation of applicable law or any Permit; (b) any measurable interference as defined by the Federal Communications Commission, to any present communications equipment belonging to or serving the Landlord or provided as a governmental activity to the residents of the Town of Barnstable or County of Barnstable. Tenant represents that its Sublease Agreements shall contain the same restrictions for (a) and (b) hereof.

**Section 2.26 Security and Safety of Public Water Supply:** No activity on the Premises (including, without limitation, on the Tower Facility and the easement areas) shall cause or pose a realistic risk to the security and safety of the public water supply and service system of which the Premises constitutes a substantial and material part. If any such risk is caused or posed. Any claim of such realistic risk shall be substantiated by a licensed professional and submitted to Tenant in writing prior to Landlord taking any action adverse to Tenant. If any such risk is caused it shall be deemed a default under this Lease and Landlord shall be entitled to seek immediate injunctive relief (without waiting for the expiration of any notice or cure period) to force the cessation of such activity, among its other rights and remedies for default.

**Section 2.27 Landlord Inspection of Premises:** Throughout the Term the Landlord shall have the right to inspect the Premises (including, without limitation, the Tower Facility) on at least 24 hours' prior written notice to Tenant. except in emergencies. In performing such inspections, Landlord shall be accompanied by a representative of Tenant, except in cases of emergency.

**Section 2.28 Submission and Approval of Plans:** Prior to commencement of any initial construction on the Premises, and prior to any material alteration of any portion of the Tower Facility, Tenant shall submit to Landlord detailed plans and specifications of the proposed installation or alteration, which plans shall show the proposed location of the easement areas, proposed landscaping, fencing and all features of the Tower Facility. Landlord shall have twenty (20) days from receipt thereof to review and approve such plans and specifications, including, without limitation, for compliance with Landlord's aesthetic criteria, limits of clearing, and placement of the Tower and other facilities and Landlord's approval shall be granted only upon



**Section 2.34 Tenant Indemnification.** Tenant agrees to indemnify, defend and hold harmless Landlord, its officers, invitees, employees and agents, successors and assigns (collectively, the “Landlord Parties”) from and against any loss, injury, suit, claim, damage, liability or expense (including reimbursement of reasonable attorneys’ fees and all costs) arising out of or in connection with any activities on the Premises, by Tenant its Subtenants or any of Tenant’s or Subtenants employees, agents, contractors or invitees (collectively, “Tenant Parties”), including, without limitation, for damages or personal injury to any person or any property in or upon the Premises, for damages or personal injury to any person or property resulting from any breach of Tenant’s covenants or obligations under this Lease or the actions or omissions of Tenant, or any Tenant Parties. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

**Section 2.35 Risk of Loss.** Notwithstanding any provisions herein to the contrary, it is understood and agreed that all property kept, installed, stored or maintained in or upon the Premises by Tenant or any Tenant Parties will be so installed, kept, stored or maintained at the risk of Tenant or such Tenant Parties.

**Section 2.36 Removal of Tower Facility.** Unless Landlord elects in writing to retain the Tower Facility, within ninety (90) days after the expiration or earlier termination of the Term of this Lease, the Tenant shall remove the Tower Facility and any and all utility connections and other property constructed or installed by the Tenant upon, above, or under the Premises (with the sole exception of the portions of the foundation and footings located below grade), and shall return the land and improvements to their original condition. If the Landlord elects not to require removal of the Tower Facility and utility connections installed by the Tenant, the Landlord may require the Tenant to transfer ownership of such Tower Facility, property and connections to the Landlord free and clear of any liens or encumbrances other than the Permitted Liens and Encumbrances, in which case Tenant shall promptly execute and deliver such documents reasonably required by Landlord to effectuate such transfer.

**Section 2.37 Interference.** The Tenant shall install communication equipment only of the types and frequencies that will not cause a measurable interference, as defined by the Federal Communications Commission, to present or future communications equipment belonging to or serving the Landlord, or provided as a governmental activity, to residents of the Town or County of Barnstable. If the Tenant’s equipment causes such interference, the Tenant shall correct and eliminate such interference within thirty days of written notice from the Landlord. Tenant further agrees that neither to construction nor use of the Tower Facility shall interfere with or jeopardize the function and operation of public works systems, utilities and access drives on the Premises or the Parent Property.

**Section 2.38 Utilities.** Tenant shall assume full responsibility for all arranging for and paying all utility costs, fees, and expenses incurred in the construction, operation, or maintenance of the Tower Facility and shall promptly pay (prior to delinquency) all such utility costs directly to the provider.

**Section 2.39 Inspections.** The initial construction of the Tower Facility shall be subject to pre-and post-construction inspections to confirm compliance with construction and installation

substance," "extremely hazardous waste," or restricted hazardous waste" under any provision of state or local law, (ii) petroleum, (iii) asbestos, (iv) polychlorinated biphenyl, (v) radioactive material, (vi) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. '1251 et seq. (33 U.S.C. '1317), (vii) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recover Act, 42 U.S.C. '6901 et seq. (42 U.S.C. '6903), or (viii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act. 42 U.S.C. '9601 et Seq. (42 U.S.C. '9601). The term "Environmental Laws" will mean all statutes specifically described in the foregoing sentence and all applicable federal, state and local environmental health and safety statutes, ordinances, codes, rules, regulations, orders and decrees regulating, relating to or imposing liability or standards concerning or in connection with Hazardous Materials.

Tenant shall not, nor shall it allow any Subtenants to, use, dispose, transport, discharge or release any Hazardous Materials in, on or from the Premises except in conformity with all applicable laws and the best industry practices. In addition to any other indemnities provided by Tenant under this Lease, Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord Parties, from and against any and all debts, liens, claims, causes of action, administrative orders and notices, costs (including, without limitation, response and/or remedial costs), personal injuries, losses, attorneys' fees, damages, liabilities, demands, interest, fines, penalties and expenses, consultants' fees and expenses, court costs and all other out-of-pocket expenses, suffered or incurred by Landlord or such other indemnified parties as a result of any breach of the foregoing covenant. This indemnity shall survive the expiration or earlier termination of this Lease.

It is understood that the foregoing indemnity shall not include any loss or damage arising from any matter, condition or state of facts involving Hazardous Materials on the Premises which existed as of the date of execution date of this Lease and which failed to comply with the Environmental Laws then in effect.

Landlord acknowledges that Tenant and its Subtenants will bring on to the Premises and use and operate on a regular basis, properly and legally stored back-up batteries and/or a properly and legally permitted fuel based back-up generator(s) that operate on either diesel, natural or propane gas, which may contain or be considered Hazardous Materials. Provided that the foregoing is permitted by and maintained in conformity with applicable laws and no Hazardous Materials are released in violation of applicable laws, it shall not be deemed a violation of this Lease.

**Section 2.45 Mechanic's Liens.** Tenant will not cause any mechanic's or materialman's lien to be placed on the Premises and Tenant agrees to indemnify, defend and hold harmless Landlord from any such lien from a party claiming by, through or under Tenant and shall discharge or "bond off" such lien within 30 days of written notice form Landlord.

**Section 2.46 Brokers.** Landlord and Tenant represent and warrant to the other that they have not signed a listing agreement, dealt with or otherwise agreed to pay a broker's commission, finder's fee or other like compensation to anyone in connection with this Lease or the transaction contemplated by this Lease and Landlord and Tenant agree to indemnify and hold the other harmless from and against any such claims or costs, including attorneys' fees, incurred as a result

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the day and year first above written.

Witnesses:

Christopher Wiseman  
Print Name: Christopher Wiseman

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**OPTIONEE/TENANT:**

TowerNorth Development, LLC  
a Vermont limited liability company

By:

Joshua Delman  
Name: Joshua Delman  
Title: Managing Member

State of MASSACHUSETTS  
County of BARNSTABLE

Before me, a notary public qualified in said county, personally came JOSHUA DELMAN of TowerNorth Development, LLC., a Vermont limited liability company, known to me to be the officer and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said limited liability company.

Witness my hand and notarial seal on MAY 2ND, 2017.

(AFFIX NOTARIAL SEAL)



Jennifer Leger  
Notary Public, State of MASSACHUSETTS  
Name: JENNIFER LEGER  
Commission No. \_\_\_\_\_  
My Commission Expires: 7-15-19

EXHIBIT "A"

Parent Parcel

414 Main Street, Cotuit MA 02635

APN: COTU-000038-000000-000004

EXHIBIT "B"  
Premises

(Leasehold Premises & Easements)

See Attached Site Sketch– Any significant deviation from the Premises as shown shall require Landlord approval.

(Site Sketch shall be replaced with an approved legal description and Site Plan at a later date)

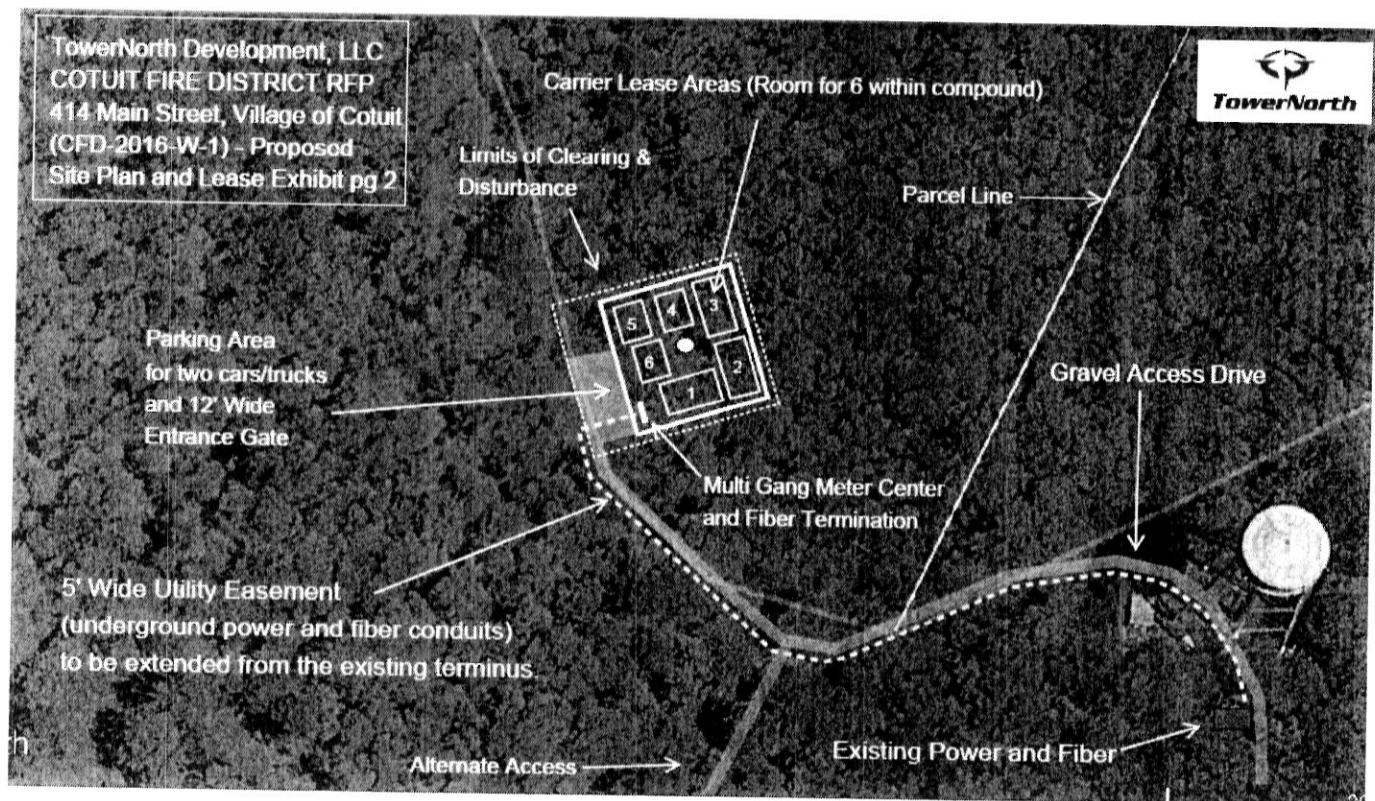
Leasehold Premises:

[Insert leasehold legal descriptions.]

Together with Easement Premises:

[Insert easement legal descriptions.]





Executed as of MAY 2, 2017.

Witnesses:

Christopher Wiseman  
Print Name: Christopher Wiseman

Print Name: \_\_\_\_\_

**OPTIONEE/TENANT:**

TowerNorth Development, LLC  
a Vermont limited liability company

By:

Joshua Delman  
Name: Joshua Delman  
Title: Managing Member

State of MASSACHUSETTS  
County of BARNSTABLE

Before me, a notary public qualified in said county, personally came JOSHUA DELMAN of TowerNorth Development, LLC., a Vermont limited liability company, known to me to be the officer and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said limited liability company.

Witness my hand and notarial seal on MAY, 2, 2017.

(AFFIX NOTARIAL SEAL)



Jennifer Leger  
Notary Public, State of MASSACHUSETTS  
Name: JENNIFER LEGER  
Commission No. \_\_\_\_\_  
My Commission Expires: 7-15-19

Exhibit A  
The Premises

(Leasehold Premises & Easements)

See Attached Site Sketch– Any significant deviation from the Premises as shown shall require Landlord approval.

(Site Sketch shall be replaced with an approved legal description and Site Plan at a later date)

