

LEASE

ARTICLE I: SUMMARY

1.1 Key Terms

DATE OF LEASE: March 1, 2013

LANDLORD: TOWN OF DEDHAM

LANDLORD'S ADDRESS: Town Administrator
Dedham Town Hall
26 Bryant Street
Dedham, MA 02026

TENANT: MOTHER BROOK ARTS AND COMMUNITY
CENTER, INC.

TENANT'S ADDRESS: 123 High Street
Dedham, MA 02026

LAND: The land known as 123 High Street in Dedham and shown
as Lot 96 on Assessors Map 112.

BUILDING: The building located on the Land, known as the Former
Avery School.

PREMISES: The Land and the Building

RENT: As set forth in Section 4.1 below

ARTICLE II: PREMISES

2.1 Premises. Landlord does hereby demise and lease unto Tenant the Premises, as described in Section 1.1 above.

The Premises are delivered to Tenant and Tenant accepts the Premises in their present condition, "AS IS," it being agreed that Tenant has had an opportunity to examine and inspect the Premises in all respects, that Landlord has made no representations or warranties of any kind with respect thereto, and that Landlord shall have no obligation to do any work on, or make any improvements to the Premises or the condition thereof, unless expressly set forth herein.

2.2 Permitted Uses. Tenant shall use the Premises for the purpose of providing a diverse arts education program that affordably serves all segments of Dedham's population, leased studio space for artists, exhibits, performances and events, a gallery and store, community gathering space and a café. For purposes of this agreement, art will be used in a broad sense to

include, but not be limited to: drawing, painting, music, sculpture, metal and wood working, culinary arts, printmaking, ceramics, digital, media and broadcasting, performance and dance, literature, illustration and poetry, and photography (the "Permitted Uses"), in accordance with the terms and conditions set forth in the Request for Proposals issued by the Town of Dedham and the Tenant's written proposal dated August 6, 2012 (the "Proposal"), which Request for Proposals and Proposal are incorporated herein and made a part hereof. The Premises shall not be used as a residence or for housing of any kind.

ARTICLE III: TERM OF LEASE

This Lease shall commence on March 1, 2013 (the "Commencement Date") and expire on February 28, 2018 (the "Initial Term"), with Tenant having the right to extend the term of the Lease for one period of five (5) years (the "Extension Term"), for a total maximum term of ten (10) years, by giving Landlord written notice thereof sixty (60) days prior to the expiration of the then current term. The Initial Term and, if exercised, all Extension Terms, are referred to herein as the "Term." Upon agreement of the parties after the lease has been in effect for no less than three (3) years, the initial lease term and/or extension period may be increased as allowed by law.

ARTICLE IV. RENT

4.1 Payment of Rent. Tenant covenants and agrees to pay Landlord, without notice or demand therefor and without any deduction or set-off whatsoever, except as expressly otherwise provided herein, the "Base Rent" and "Additional Rent," as such terms are defined below.

4.2 Base Rent. Tenant's obligation to pay annual rent (the "Base Rent") shall commence on July 1, 2014. For each lease year commencing on July 1, 2014, Tenant shall pay to Landlord an annual rent (the "Base Rent") for the Premises equal to two and one-half (2.5%) percent of the income due Tenant from the studio rentals at the Premises for the proceeding twelve (12) month period. The word "studio" as used herein shall refer to that portion of the Premises labeled in whole or in part as "studio" on the floor plan attached hereto as Exhibit A and incorporated herein. For each lease year commencing on July 1, 2019, Tenant shall pay to Landlord Base Rent for the Premises equal to five (5%) percent of the income due Tenant from the studio rentals at the Premises for the proceeding twelve (12) month period. For each lease year or portion thereof commencing on January 1, 2022, Tenant shall pay to Landlord Base Rent for the Premises equal to seven and one-half (7.5%) percent of the income due Tenant from the studio rentals at the Premises for the proceeding twelve (12) month period. Said Base Rent shall be paid to Landlord in equal installments equal to 1/12th of the Base Rent in advance on the first day of each calendar month included in such year; provided, however, that the payment due in July of each year through July of 2021 and in January commencing January of 2022 shall be due and payable no later than 15th of said month to provide Tenant the opportunity to determine and calculate the Base Rent for said year. Landlord may require such documentation from Tenant as is necessary to establish the amount of Rent owed, and Additional Rent as defined below. The Tenant shall provide Landlord with copies of all IRS Form 990's filed by Lessee. If, during the year period of July 1, 2018, through June 30, 2019, Tenant collects income from studio rentals in excess of \$175,000 and income from class tuition in excess of \$175,000, the Base Rent shall be subject to renegotiations between the parties. If, during the year period of July 1, 2018, through

June 30, 2013, Tenant collects income from studio rentals of less than \$105,000 and income from class tuition of less than \$105,000, the Base Rent shall be subject to renegotiations between the parties.

4.3 Additional Rent. Tenant shall also be responsible for any and all taxes, levies, betterments or assessments, fees or charges that are assessed or chargeable during the Term of this Lease in relation to the Premises or Tenant's use thereof and for the maintenance of the Premises. Nothing herein is intended as a determination that Tenant or Tenant's Use of the Premises will be subject to any such charges. All sums required to be paid by Tenant under this Lease, other than Base Rent, shall be construed and paid as Additional Rent. Base Rent and Additional Rent are referred to, together, as "Rent."

4.4. General Rent Provisions. Rent shall be payable by Tenant on July 1 of each year, beginning in 2014, as set forth above, during the Term of this Lease. All Rent and other payments required to be made by Tenant to Landlord under this Lease shall be paid by check made payable to the "Town of Dedham" and delivered to Landlord at the address set forth above, or at such other place as Landlord may from time to time direct by written notice to Tenant.

4.5. Interest. All payments becoming due under this Lease and not paid within fifteen (15) days of the due date shall bear interest from the applicable due date until received by Landlord at an annual rate equal to the prime rate of interest charged from time to time by Bank of America or its successor.

4.6. Triple Net Lease. Landlord and Tenant acknowledge and agree that, except as set forth in Section 8.4 below, this is an absolute triple net lease, and Tenant shall have the sole responsibility with regard to maintaining the Premises. All payments of Rent shall be absolutely net to Landlord so that this Lease shall yield to Landlord the Rent herein specified in each year during the Term of this Lease free of any taxes, assessments, charges, impositions or deductions of any kind charged, assessed or imposed on or against the Premises. Landlord shall not be expected or required to pay any such charge, assessment or imposition, or furnish any services to the Premises or be under any obligation or liability hereunder except as herein expressly set forth. Except as provided otherwise, all costs, expenses and obligations of any kind relating to the maintenance of the Premises, including without limitation all alterations, repairs, restoration, reconstruction and replacements as hereinafter provided, which may arise or become due during the Term hereof, or thereafter, so long as Tenant or anyone claiming by, through or under Tenant shall remain in occupancy of the Premises, shall be paid by Tenant at Tenant's sole cost and expense.

ARTICLE V: UTILITIES

5.1. Delivery of Utilities. Landlord shall not be responsible for providing or paying for utilities to the Premises or for general maintenance of the Premises except as otherwise set forth herein. Tenant agrees to pay promptly, as and when the same become due and payable, all charges for water, sewer, electricity, gas, heat, steam, hot and/or chilled water, air conditioning, ventilating, lighting systems, communications and other utilities supplied to the Premises (whether prior or during the Term, or subsequent thereto if relating to Tenant's use of the

Premises). If Tenant fails to pay for the utilities furnished to the Premises, Landlord shall have the right, but not the obligation, to pay the same, and Tenant shall reimburse Landlord promptly upon demand for all costs, expenses and other sums of money in connection therewith, with interest, as Additional Rent.

5.2. Additional Utilities. In the event Tenant requires additional utilities or equipment, all costs incurred in connection therewith, including installation, maintenance and repairs of the same, shall be Tenant's sole obligation, provided that such installation shall be subject to the prior written consent of Landlord and shall be installed in conformity with plans and specifications provided by Tenant and approved by Landlord, said consent not to be unreasonably withheld.

5.3. Tenant Not to Exceed Capacity of Feeders or Wiring. Tenant covenants and agrees that at all times its use of electric current shall never exceed the capacity of the feeders to the Premises or the wiring installations therein.

ARTICLE VI: ALTERATIONS AND ADDITIONS

6.1. Construction of Improvements. Tenant may make non-structural alterations or additions to the Premises, and may make structural alterations to the Premises described in the Tenant's written proposal dated August 2, 2012 and incorporated herein by reference. Tenant shall not make any other structural alterations or additions to the Premises without Landlord's prior written consent thereto, which consent shall not be unreasonably withheld or delayed. All such allowed or required alterations or additions shall be at Tenant's sole expense, shall be in accordance with all applicable laws and codes, and shall be in quality at least equal to the present construction.

6.2. Compliance with Laws. Tenant shall procure all necessary permits before undertaking any work on the Premises, including without limitation any structural alterations, and shall cause all such work to be performed in a good and first-class workmanlike manner and in accordance with the requirements of insurers, employing new materials of prime quality and shall defend, hold harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by such work. Tenant shall at all times comply with (i) Massachusetts public bidding laws and all laws, rules, orders and regulations of governmental authorities having jurisdiction thereof, in effect at the time of application for permits for such work; provided, such laws, rules, orders or regulations are applicable to Tenant; (ii) orders, rules and regulations of any Board of Fire Underwriters, or any other body hereafter constituted exercising similar functions, and governing insurance rating bureaus; and (iii) plans and specifications (which shall be prepared by and at the expense of Tenant and approved by Landlord prior to beginning any work). Tenant agrees to employ responsible contractors for such work and shall cause such contractors to carry workers' compensation insurance in accordance with statutory requirements and comprehensive public liability insurance and automobile liability insurance covering such contractors on or about the Premises in amounts reasonably acceptable to Landlord and agrees to submit certificates evidencing such coverage to Landlord prior to the commencement of and during the continuance of any such work.

interfere with the Tenant's use of the Premises. Notwithstanding any provision of this Lease to the contrary, Tenant shall not be responsible for any costs and expenses (including but not limited to maintenance, utility charges, and taxes) related to any such telecommunications facility. The owner and/or operator of such facility shall be solely responsible for obtaining any and all necessary licenses, approvals, and permits for such facility, and shall take no action which results in Tenant or Tenant's Use being in violation of any law, by-law, or regulation.

Landlord reserves the right to occupy the "multi-purpose presentation and community gathering room", as shown on Exhibit A, on a temporary basis in the event of a public emergency (unforeseen and substantial physical calamity, act of God, accident, or similar event) depriving Landlord of use of its other facilities. Landlord agrees to give notice in writing to Tenant thirty (30) days in advance of expected occupancy, or such notice as can reasonably be given to accommodate emergency use, indicating the nature of the public emergency, the amount of space required by Landlord and the purpose for which it will be used, and the expected period of occupancy, the latter of which shall be determined by the time required by Landlord to repair, rebuild or replace the property damaged by the public emergency. Tenant shall furnish such space to Landlord, the exact location of such space to be determined by agreement of the parties. In the event Landlord does occupy any portion of the Premises under this provision it shall pay a proportional part of the cost of required maintenance and utilities.

7.3 Compliance with Laws, Regulations, and Codes; Hazardous Substances. Tenant acknowledges that no trade or occupation shall be conducted in the Premises or use made thereof which will be unlawful, improper, offensive, or contrary to any federal, state or local law, regulations, codes and ordinances, including, but not limited to, those that relate to health and safety and those of the Board of Fire Insurance Underwriters. Without limiting the generality of the foregoing, Tenant shall not bring or permit to be brought or kept on the Premises or elsewhere on the Premises any hazardous, toxic, inflammable, combustible or explosive fluid, material, chemical, or substance, including without limitation any item defined as hazardous pursuant Chapter 21E of the Massachusetts General Laws and federal and other state laws ("Hazardous Substances"). Hazardous Substances shall not include cleaning liquids or other substance in amounts normally in use for a school or an Arts Center nor include any substances normally associated with activities in an Arts Center, including but not limited to, paints, solvents, glue, glaze and other art supplies, as long as such materials remain at non-reportable levels and are stored and disposed of in accordance with applicable laws, rules and regulations. Tenant hereby agrees to indemnify and hold harmless Landlord, and those claiming by, through and under Landlord, from and against any and all liability, loss, damage, costs, expenses (including, without limitation, reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature in any way suffered, incurred, or paid as a result of any release or threatened release of Hazardous Substances on or from the Premises which is caused or exacerbated by Tenant, its agents, employees, contractors, representatives, or invitees. Neither party shall have responsibility to the other party, its agents, employees, representatives, permittees and invitees, for the presence of Hazardous Substances located on the Premises prior to the Commencement Date, or be required to abate or remediate the same. Landlord warrants and represents that Landlord has no actual knowledge of any such Hazardous Substances currently located in the Premises. The provisions of this Section shall survive the expiration or earlier termination of the Lease.

7.4 Assignment and Subleasing. Tenant shall not assign, sublet, underlet, mortgage, pledge or encumber (collectively referred to as "Transfer") the Lease in its entirety without Landlord's prior written consent, which may be withheld in Landlord's sole discretion. Consent by Landlord, whether express or implied, to any Transfer shall not constitute a waiver of Landlord's right to prohibit any subsequent Transfer; nor shall such consent be deemed a waiver of Landlord's right to terminate this Lease upon any subsequent Transfer. As used herein, the term "assign" or "assignment" shall be deemed to include, without limitation, any transfer of Tenant's interest in the Lease by operation of law. Nothing in this Paragraph shall prevent or prohibit Tenant from renting or leasing studio, café, or other space in the Premises in furtherance of Tenant's Use and as set forth in the Proposal without the Landlord's prior written consent.

ARTICLE VIII – MAINTENANCE

8.1. Tenant's Responsibility. Tenant shall be responsible, at its sole expense, for the general maintenance of the Premises. Tenant shall keep the Premises, including, without limitation, the electrical fixtures, windows, halls, stairwells, lavatories and all other areas of the Premises, the landscaping (including, without limitation, keeping the grass neat and cut and trimming of trees and bushes), the parking areas of the Premises, all pipes, wiring and lighting, all plumbing and utility lines serving the Premises, the heating and ventilating system (other than as set forth below) and the fire protection equipment and systems serving the Premises, in good and safe order, condition and repair, excepting only reasonable use and wear and damage by fire or other casualty. Tenant shall also, at its sole expense, keep and maintain the Premises and all sidewalks, curbs and drives on or adjoining the same in a clean and orderly condition, free of dirt, rubbish, and unlawful obstructions. Tenant shall be solely responsible for removing snow and ice from the Premises, including all sidewalks, walkways, and parking areas. Tenant shall not permit the Premises to be overloaded, damaged, stripped, or defaced, nor suffer any waste. Tenant shall be responsible for removing trash from the Premises and the collection and disposal thereof. Tenant shall not allow rubbish or trash to accumulate on or about the Premises. Tenant agrees to keep, operate, use and maintain every part of the Premises in conformity with all requirements of the law and applicable fire underwriting and related regulations, and to do all other work necessary to comply with the foregoing covenant.

Tenant shall further be solely responsible for all structural repairs necessary to maintain the building in a safe and habitable condition and in compliance with all applicable laws and regulations, including the building exterior, the roof, framing, floor slabs, and foundation of the Premises, and the heating and ventilation system, other than as set forth below. If Tenant reasonably determines that it does not have the funds to make necessary structural repairs, or to pay its share of replacement/refurbishment costs as set forth in Section 8.4, below, and the need for such repairs or replacement is not the result of any act, omission or negligence of Tenant, Tenant's contractors, agents, employees, customers, licensees and invitees, it may terminate its leasehold by 30-day written notice to Landlord, specifying the reason for such termination, without further obligation for such repairs or costs, provided, however, that Tenant shall remain responsible for all Rent owing at the time of termination.

8.2. Maintenance Escrow Account. To secure its maintenance obligations under this Lease, Tenant shall establish as of the Commencement Date, and thereafter maintain at its sole

cost in accordance with the terms hereof, a deposit account to be held in escrow by a neutral agent pursuant to a written agreement signed by all parties. Tenant shall deposit in such account as of the Commencement Date the sum of \$1,000, and shall at three month intervals, commencing six (6) months after the Commencement Date, thereafter deposit in the account \$3,000 or such greater sum as is necessary until the account shall contain \$15,000. Tenant may at any time, upon written notice to Landlord specifying the purpose for such withdrawal, draw on such funds to carry out its maintenance obligations under this Lease, provided that no withdrawals causing the balance of the account to fall below \$5,000 shall be made without Landlord's written approval, such approval not to be unreasonably withheld, and further provided that by June 30 of each year in the Lease Term beginning in 2015, Tenant shall have replenished the account so as to leave a balance of no less than \$15,000. Landlord may withdraw funds from the account for costs incurred in accordance with Section 8.3, below, if such costs are not reimbursed within thirty (30) days of written demand to Tenant.

8.3 Tenant's Failure to Maintain. If Tenant shall fail to keep the Premises in the condition required herein, or if repairs are required to be made by Tenant pursuant to the terms hereof, within thirty (30) days after notice by Landlord (or without notice in any emergency, immediately threatening life or property), Landlord shall have the right (but shall not be obligated) to make such repairs, replacements or perform maintenance work or any other work required of Tenant pursuant to this Lease and charge the reasonable cost thereof to Tenant as Additional Rent, with interest.

8.4. Landlord's Responsibility. Landlord shall be responsible for inspecting, maintaining, and repairing the heating system for the Premises, such system to include radiators, tanks, pipe, steam traps and boilers, provided that Tenant shall reimburse Landlord for the cost of any replacement parts required as a result of such maintenance and repair. Should it be necessary to replace or refurbish one or more of said boilers, including ancillary parts such as steam traps, during the term of the Lease in order to maintain said heating system in good and safe working condition (hereinafter, "replacement"), Landlord may provide and pay for said replacement, provided that Landlord shall have obtained all approvals, authorizations, and funding necessary to allow for such work, which approvals may include, without limitation, a favorable vote of the Dedham Town Meeting to authorize the appropriation, transfer or borrowing of sufficient funds. Following completion of said replacement by Landlord, Tenant shall pay to Landlord as Additional Rent, in equal payments on June 30th in each remaining year of the Lease Term, one-tenth (1/10th) of fifty percent (50%) of the total cost of said replacement, which cost shall be reduced by any rebates or similar credits, but shall include labor, parts, and debt service. In replacing a boiler or boilers, Landlord may choose, in Landlord's reasonable judgment and consistent with accepted industry standards and practices, to install gas-fired boilers to replace existing oil-fired boilers, and Landlord shall be solely responsible for the cost of installing gas service and removing oil service (and existing oil tank if required). In the event it is necessary to replace one or more boilers during the Lease Term in order to provide heat to the Premises, and Landlord is unwilling or unable to do, Tenant may terminate its leasehold by written notice to Landlord or may provide for the necessary work using its own funds, and in any event shall release, defend, indemnify and hold Landlord harmless from and against all claims, expenses, injury, damages, or liability of whatever nature arising from Landlord's decision.

ARTICLE IX: INDEMNIFICATION; RELEASE

9.1. Indemnification. Tenant shall, during the term hereof, assume and maintain exclusive control of the Premises and defend, indemnify and save harmless Landlord from and against all claims, expenses or liability of whatever nature arising from any act, omission or negligence of Tenant, Tenant's contractors, agents, employees, customers, licensees and invitees, or anyone claiming by, through or under Tenant, or arising, directly or indirectly, from any accident, injury or damage whatsoever, however caused, to any person, or to the property of any person, in or about the Premises, or arising from any accident occurring outside the Premises but within the general area of the Premises, where such accident, injury or damage results or is claimed to have resulted from any act, omission or negligence on the part of Tenant or Tenant's contractors, agents, employees, customers, licensees and invitees, or anyone claiming by, through or under Tenant.

The foregoing indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, including attorneys' fees, and the defense thereof with counsel acceptable to Landlord or counsel selected by an insurance company which has accepted liability for any such claim.

9.2. Release. To the maximum extent this Lease may be made effective according to law, Tenant agrees to use and occupy the Premises at Tenant's own risk, and Landlord shall have no responsibility or liability for any loss or damage to fixtures or other personal property of Tenant or any person claiming by, through or under Tenant. Without limitation, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or those claiming by, through or under Tenant, for any loss or damage resulting to Tenant or those claiming by, through or under Tenant, its or their property from the breaking, bursting, stopping or leaking of electric cables and wires, and water, gas or steam pipes.

The provisions of this Article shall survive any termination of this Lease.

ARTICLE X: INSURANCE

10.1. Tenant's Insurance. Tenant shall obtain and keep in force at its own expense so long as this Lease remains in effect and thereafter so long as Tenant, or anyone claiming by, through or under Tenant, uses or occupies the Premises or any part thereof, policies of insurance for the benefit of such parties, in the amounts, and in the manner and form set forth in this Section; provided, however, that amounts of insurance coverage may from time to time be increased. Tenant shall furnish certificates evidencing each such insurance coverage to Landlord prior to the execution of this Lease (to the extent such insurance is appropriate at such time) and providing that the insurer shall give Landlord written notice at least thirty (30) days in advance of any termination, expiration or any and all changes in coverage. The kinds and amounts of such insurance coverage shall not be less than the kinds and amounts designated herein, and Tenant agrees that the stipulation herein of the kinds and minimum amounts of insurance coverage, or the acceptance by Landlord of Certificates of Insurance indicating the kinds and

limits of coverage shall in no way limit the liability of Tenant to any such kinds and amounts of insurance coverage.

(a) Commercial General Liability Insurance: A Comprehensive General Liability policy on an occurrence basis endorsed to include broad form comprehensive general liability with a limit of not less than \$1,000,000.00 per occurrence and \$2,000,000 per aggregate. The policy shall name Landlord, and its officers, agents, servants, employees and consultants as additional insured parties. Tenant and its insurers shall waive all rights of subrogation against the Town;

(b) Worker's Compensation Insurance: Tenant and any subtenants, as applicable, shall provide Workers' Compensation Insurance required by law and the Employer's Liability insurance for at least the amounts of liability for bodily injury by accident of \$100,000.00 each accident; bodily injury by disease each employee of \$100,000.00; and bodily injury by disease policy limit of \$500,000.00, or such greater amount as may be required from time to time by the laws of the Commonwealth of Massachusetts. Tenant and its contractors, subcontractors and independent contractors and their insurers shall waive all rights of subrogation against the Town, and its officers, agents, servants, and employees for losses arising from work performed by each;

(c) Automobile Liability and Property Damage insurance for any auto, including but not limited to coverage for owned, non-owned and hired automobiles, in the amount of \$1,000,000 combined single limit (bodily injury and property damage);

(d) Umbrella/Excess Liability Insurance: An Umbrella/Excess Liability insurance policy on an occurrence basis "following form" of the primary coverage with a limit of liability of \$5,000,000.00. The Umbrella/Excess Liability insurance policy shall include but not be limited to the following coverages for bodily injury, property damage and personal injury: (i) Premises - Operations Liability; (ii) Contractual Liability; (iii) Automobile Liability for owned, non-owned and hired vehicles. Landlord, its officers, agents, servants and employees shall be named as additional insured parties.

(e) Should Tenant choose to make improvements to the building as discussed in Section 6.1, Tenant will be required to provide Landlord with evidence that Tenant has required its contractors to maintain (i) worker's compensation insurance in the amounts required by law (or reasonably comparable insurance if such insurance is no longer available), (ii) builder's risk (or such reasonably comparable insurance) insurance on an "all risk" basis (including collapse) insuring against casualty to such construction for full replacement value of the work performed and the equipment supplies and materials furnished and stored, (iii) automobile liability insurance in the minimum amounts required by law with limits of liability not less than \$1,000,000 per occurrence for property damage and \$2,000,000 combined single limit, (iv) Employer's Liability Insurance affording protection in the amount of not less than \$500,000 per accident and \$500,000 for disease, (v) public liability insurance within limits in an amount not less than \$3,000,000 comprehensive general liability total with a limit of \$1,000,000 an occurrence, and (vi) Professional/Environmental Impairment Liability Insurance providing coverage for environmental contamination, bodily injury and/or property damage arising out of acts and omissions of Tenant or its contractors, employees or agents in the performance of the

Permitted Uses or any other activities or failures to act at or with respect to the Premises in the amount of \$1,000,000 for each claim and \$1,000,000 in the aggregate (which insurance, unlike the other insurance noted above, may be made on a claims made basis). Tenant shall require that Landlord, and its officers, agents, servants and employees be named as additional insureds on all subtenants, concessionaires, subcontractor's and independent contractor's insurance, excluding Workers' Compensation.

Landlord shall have the right to require Tenant to increase such limits when, during the term of this Lease, minimum limits of liability insurance commonly and customarily carried on properties comparable to the Premises by responsible owners or tenants are more or less generally increased, it being the intention of this sentence to require Tenant to take account of inflation in establishing minimum limits of liability insurance maintained from time to time on the Premises.

Landlord shall have the same rights and remedies for the non-payment by Tenant to Landlord of amounts due on account of insurance premiums as Landlord has under this Lease for the failure of Tenant to pay the Rent.

10.2 Personal Property. Tenant agrees that Landlord shall have no responsibility or liability for any loss or damage or injury to from any cause whatsoever, including theft or otherwise of fixtures, improvements, or other personal property of Tenant. Tenant agrees that it shall continuously keep its fixtures, merchandise (if any), equipment and other personal property from time to time located in, on or about the Premises, and all leasehold improvements to the Premises constructed or installed by Tenant insured by reputable, duly licensed insurance companies against loss or damage by fire with the usual extended coverage endorsements. Within a reasonable time after Tenant enters the Premises, no less often than annually thereafter, and at any other time upon the request of Landlord, Tenant shall furnish to Landlord evidence of such continuous insurance coverage satisfactory to Landlord. It is understood and agreed that Tenant assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise.

10.3. General Requirements. Landlord shall be named as an additional insured on all insurance policies. All required insurance shall be written with such companies qualified to do business in Massachusetts, as Tenant shall select and Landlord shall approve, which approval Landlord agrees not to withhold unreasonably. Tenant shall provide and agrees that its insurance coverage and all other required insurance coverage from other parties shall be primary insurance, as respects the Town, and that the Town's insurance, if any, shall be non-contributory. Without limiting Landlord's other rights under any other provisions of this Lease, if Tenant shall fail to keep the Premises insured as provided herein, and if such failure shall continue to a period of ten (10) days following written notice by Landlord to Tenant thereof, then Landlord, without further notice to Tenant, may take out and pay for such insurance, and the amount of such payment shall become due and payable as Additional Rent on demand.

Tenant hereby waives any and all rights of recovery which it might otherwise have against Landlord, its agents, employees and other persons for whom Landlord may be responsible for any loss or damage to Tenant's property or improvements in the Premises which

are either required to be insured under the terms of this Lease or which Tenant, in the absence of any such requirement, elects to insure, notwithstanding that the loss or damage may result from the negligence, willful act or default under the terms of this Lease by Landlord, its agents, employees, contractors, or other persons for whom Landlord may be responsible.

ARTICLE XI: CASUALTY; EMINENT DOMAIN

(a) For the purposes of this Article XI, "substantial part" shall be defined as that portion of the Premises which if damaged or taken by eminent domain would materially affect the use of the Premises for the Permitted Uses.

(b) If a substantial part of the Premises shall be destroyed or damaged by fire or other casualty, or if a substantial part of the Premises shall be taken by any public or quasi-public agency or authority other than Landlord for any public or quasi-public use under governmental law or by right of eminent domain and the taking would materially interfere with the use of the Premises for the Permitted Uses, then this Lease shall terminate at the election of either Landlord or Tenant. Any such termination shall be effective thirty (30) days after the date of notice thereof.

(c) In the event of a taking by eminent domain, Landlord shall have, and hereby reserves and excepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Premises and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking or damage. Tenant covenants to deliver such further assignments and assurances thereof as Landlord may from time to time request, hereby irrevocably designating and appointing Landlord as its attorney-in-fact to execute and deliver in Tenant's name and behalf all such further assignments thereof. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the value of any of Tenant's usual trade fixtures installed in the Premises by Tenant at Tenant's expense and for relocation expenses, provided that such action shall not affect the amount of compensation otherwise recoverable hereunder by Landlord from the taking authority.

ARTICLE XII: TERMINATION; DEFAULT

In the event that:

(a) Tenant shall default in the payment of Rent or any other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or

(b) Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice (or any shorter period, if specified herein); or

(c) the occurrence of any of the following events: (i) the making by Tenant of any general arrangement or assignment for the benefit of creditors; (ii) Tenant's becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within 60 days); (iii) the

appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within 30 days; or (iv) the attachment, execution or other judicial seizure of 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 30 days; provided, however, in the event that any provision of this paragraph (c) is contrary to any applicable law, such provision shall be of no force, and not affect the validity of the remaining provisions; or

(d) Tenant fails to make consistent use of the building as an arts and community center for the public benefit of Dedham residents and the surrounding area at any time after the first year of the lease term, such consistent use to be defined as more than 75% of the building occupied by artist's space, used for arts education space and/or as community space, and such default shall not be corrected within thirty (30) days after written notice;

then Landlord shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises, to declare the Term of this Lease ended, and remove Tenant's effects, without prejudice to any other remedy which may be available to Landlord. To the extent permitted by law, Tenant shall indemnify Landlord against all payments which Landlord may incur by reason of such termination during the residue of the Term. If Tenant shall default after reasonable notice thereof, in the observance or performance of any conditions or covenants on Tenant's part to be performed or observed by virtue of any of the provisions of any article of this Lease, Landlord, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of Tenant. If Landlord makes any expenditures or incurs any obligations for the payment of money in connection with Tenant's default, including but not limited to, reasonable attorneys' fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred shall be paid to Landlord by Tenant as Additional Rent.

Without limiting any of Landlord's rights and remedies hereunder, and in addition to all other amounts Tenant is otherwise obligated to pay, it is expressly agreed that Landlord shall be entitled to recover from Tenant all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in enforcing this Lease from and after Tenant's default.

ARTICLE XIII: MISCELLANEOUS

13.1. Changes in Lease. None of the covenants, agreements, provisions, terms and conditions of this Lease shall in any manner be changed, altered, waived or abandoned except by a written instrument signed, sealed and mutually agreed upon by all the parties hereto, and approved as required by law. Such instrument shall not be void for want of consideration.

13.2. Quiet Enjoyment. Landlord hereby warrants and covenants that Tenant shall have peaceful and quiet use and possession of the Premises without hindrance or interruption on the part of Landlord, or by any other person(s) for whose actions Landlord is legally responsible, or by any person claiming by, through or under Landlord, except as herein provided.

13.3. Landlord's Entry. Landlord or its agents may, at reasonable times and without interfering with Tenant's business operations, enter the Premises from time to time to make repairs or to inspect the Premises. Landlord shall give Tenant a minimum of twenty-four (24) hours notice for such visits, provided however that Landlord may enter the Premises at any hour and without prior notice in the case of an emergency affecting the Premises.

13.4. Yield Up at Termination of Lease. Tenant shall at the expiration or other termination of this Lease remove all Tenant's effects from the Premises. Tenant shall deliver the Premises to Landlord in the condition in which Tenant is required to maintain the same as set forth in this Lease, reasonable wear and tear excepted and fire and other casualty excepted.

13.5. Holding Over. If Tenant or anyone claiming under Tenant shall remain in possession of the Premises or any part thereof after the expiration of the term hereof, without any agreement in writing between Landlord and Tenant with respect thereto, the person remaining in possession shall be deemed a tenant at sufferance. After acceptance by Landlord of any payments made under this Lease, the person remaining in possession shall be deemed a tenant from month-to-month, subject to the provisions of this Lease insofar as the same may be made applicable to a tenant from month-to-month, which occupancy or use may at any time be terminated by either party by one (1) month's written notice to the other party.

13.6. Severability. If any provision of this Lease is declared to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision provided, however, that the remainder of the Lease shall be enforced to the fullest extent permitted by law.

13.7. Binding Agreement; Covenants and Agreements; Governing Law; Personal Liability. This Lease shall bind and inure to the benefit of the parties hereto and their respective representatives, successors and assigns. All covenants, agreements, terms and conditions of this Lease shall be construed as covenants running with the land. This Lease contains the entire agreement of the parties and may not be changed or modified except by a written instrument in accordance with the provisions herein. This Lease shall be governed by the laws of the Commonwealth of Massachusetts. The provisions of those laws shall not be deemed waived by any provision of this Lease.

The failure of either party to seek redress for violation or to insist upon the strict performance of any covenant or condition of this Lease shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of a violation. No provision of this Lease shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party to be bound thereby.

No mention in this Lease of any specific right or remedy shall preclude Landlord or Tenant from exercising any other right, or from having any other remedy, or from maintaining any action to which it may otherwise be entitled either in law or in equity.


No official, employee or consultant of the Town of Dedham shall be personally liable to Tenant or any partner thereof, or any successor in interest or person claiming through or under Tenant or any such partner, in the event of any default or breach, or for or on account of any amount which may be or become due, or on any claim, cause or obligation whatsoever under the terms of this Lease or any amendment or extension entered into pursuant hereto.

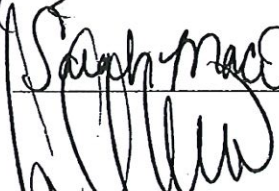
13.8. Notice. Any notice relating to the Premises or to the occupancy thereof shall be in writing and shall be deemed duly served when mailed by registered or certified mail, postage prepaid, addressed to the other party at the addresses listed in Section 1.1, or at such other addresses as the parties may from time to time designate by written notice to the other party.

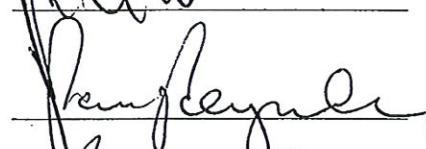
IN WITNESS WHEREOF, this Lease has been executed in duplicate by the parties hereto, under seal.

LANDLORD:

TOWN OF DEDHAM,
By its Board of Selectmen,



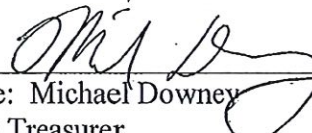
Stephen MacDonald




Michael Beattie

TENANT:

**MOTHER BROOK ARTS AND
COMMUNITY CENTER, INC.**

By: 

Name: Michael Downey
Title: Treasurer

450965/DEDH/0001

FIRST AMENDMENT OF LEASE

**THE TOWN OF DEDHAM
AND
MBACC**

123 HIGH STREET: THE FORMER AVERY SCHOOL

This First Amendment of Lease ("*Amendment*") is dated as of November 15, 2016 (the "*Effective Date*") by and between the Town of Dedham, a Massachusetts municipal corporation with an address of 26 Bryant Street, Dedham, MA 02026 ("*Landlord*") and the Mother Brook Arts and Community Center, Inc., a Massachusetts non-profit corporation having an address of 123 High Street, Dedham, MA 02026 ("*Tenant*" or "*MBACC*"). In this Amendment, Landlord and Tenant may be referred to individually as a "*Party*" and collectively as the "*Parties*".

WITNESSETH:

WHEREAS, Landlord and Tenant previously entered into that certain Lease dated as of March 1, 2013 (the "*Lease*"), a copy of which is attached hereto as Exhibit A, with regard to that land and the building located thereon at 123 High Street in Dedham and known as the former Avery School (the "*Premises*"), said Premises being more particularly described in the Lease, which Lease remains in full force and effect; and

WHEREAS, the Parties desire to extend the term of the Lease and to amend certain other provisions of the Lease to allow and account for restaurant use, all as more particularly set forth herein;

NOW, THEREFORE, for good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, the Parties agree to amend the Lease as follows:

1. Permitted Uses. Section 2.2 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant shall use the Premises for the purpose of providing a diverse arts education program that affordably serves all segments of Dedham's population, leased studio space for artists, exhibits, performances and events, a gallery and store, community gathering space and a café *or restaurant*. For purposes of this agreement, art will be used in a broad sense to include, but not be limited to: drawing, painting, music, sculpture, metal and wood working, culinary arts, printmaking, ceramics, digital, media and broadcasting, performance and dance, literature, illustration and poetry, and photography (the "Permitted Uses"), in accordance with the terms and conditions set forth in the Request for Proposals issued by the Town of Dedham and the Tenant's written proposal dated August 6, 2012 (the "Proposal"), which Request for Proposals and Proposal are incorporated herein and made a part hereof. The Premises shall not be used as a residence or

for housing of any kind. *The café or restaurant may obtain a full service liquor license.*

2. Term of Lease. Article III of the Lease shall be amended to read as follows (new language in bold italics):

This Lease shall commence on March 1, 2013 (the "Commencement Date") and expire on *March 1, 2027* (the "Initial Term"), with Tenant having the right to extend the term of the Lease *for one period of ten (10) years following the Initial Term (the "First Extension") and for an additional one period of five (5) years following the First Extension* (the "Second Extension Term"), for a total maximum term of *twenty-nine (29)* ~~ten (10)~~ *consecutive* years, by giving Landlord written notice thereof sixty (60) days prior to the expiration of the then current term. The Initial Term and, if exercised, all Extension Terms, are referred to herein as the "Term." Upon agreement of the parties ~~after the lease has been in effect for no less than three (3) years~~, the initial lease term and/or extension period may be increased as allowed by law.

3. Base Rent. Section 4.2 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant's obligation to pay annual rent (the "Base Rent") shall commence on July 1, 2014. For each lease year commencing on July 1, 2014, Tenant shall pay to Landlord an annual rent (the "Base Rent") for the Premises equal to two and one-half (2.5%) percent of the income due Tenant from the studio rentals at the Premises, for the proceeding twelve (12) month period. The word "studio" as used herein shall refer to that portion of the Premises labeled in whole or in part as "studio" on the floor plan attached hereto as Exhibit A and incorporated herein. For each lease year commencing on July 1, 2019, Tenant shall pay to Landlord Base Rent for the Premises equal to five (5%) percent of the income due Tenant from the studio rentals at the Premises for the proceeding twelve (12) month period. For each lease year commencing on July 1, 2021, Tenant shall pay to Landlord Base Rent for the Premises equal to seven and one-half (7.5%) percent of the income due Tenant from the studio rentals at the Premises for the proceeding twelve (12) month period. *Tenant shall further pay to Landlord as Base Rent in each lease year, commencing on July 1, 2016, the following percentage of the gross rent and all other revenue due Tenant, its successors and assigns, from subleasing or otherwise providing for use of any portion of the Premises as a café and/or restaurant for the proceeding twelve (12) month period: 0% during the period July 1, 2016 through December 31, 2018; 5% during the period January 1, 2019 through June 30, 2021; and 10% during the period July 1, 2021 to the conclusion of the Lease Term.* Said Base Rent shall be paid to Landlord in equal installments equal to ~~1/12th~~ *one-quarter (1/4)* of the Base Rent in advance on the first day of each ~~calendar month~~ *quarter of the lease year commencing on July 1, as follows: July 1; October 1; January 1; and April 1*; provided, however, that the payment due in July of each year shall be due and payable no later than July 15th to provide Tenant the opportunity to determine

and calculate the Base Rent for said year. Landlord may require such documentation from Tenant as is necessary to establish the amount of Rent owed, and Additional Rent as defined below. The Tenant shall provide Landlord with copies of all IRS Form 990's filed by Lessee. If, during the year period of July 1, 2018, through June 30, 2019, Tenant collects income from studio rentals in excess of \$175,000 and income from class tuition in excess of \$175,000, the Base Rent shall be subject to renegotiations between the parties. If, during the year period of July 1, 2018, through June 30, 2013 2019, Tenant collects income from studio rentals of less than \$105,000 and income from class tuition of less than \$105,000, the Base Rent shall be subject to renegotiations between the parties.

4. Additional Rent. Section 4.3 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant shall also be responsible for any and all taxes, levies, betterments or assessments, fees or charges that are assessed or chargeable during the Term of this Lease in relation to the Premises or Tenant's use thereof and for the maintenance of the Premises. Nothing herein is intended as a determination that Tenant or Tenant's Use of the Premises is subject to any such charges. All sums required to be paid by Tenant under this Lease, other than Base Rent, shall be construed and paid as Additional Rent. Base Rent and Additional Rent are referred to, together, as "Rent." ***"Tenant's use" as that term is used in this Lease, shall include the use of the Premises by Tenant and its sublessees, agents, employees, licensees, invitees, successors, and assigns.***

5. Sections 5.1 and 5.2 of the Lease shall be amended to read as follows (new language in bold italics):

5.1. Additional Utilities. In the event Tenant's *use* requires additional utilities or equipment, all costs incurred in connection therewith, including installation, maintenance and repairs of the same, shall be Tenant's sole obligation, provided that such installation shall be subject to the prior written consent of Landlord and shall be installed in conformity with plans and specifications provided by Tenant and approved by Landlord, said consent not to be unreasonably withheld.

5.2. Tenant Not to Exceed Capacity of Feeders or Wiring. Tenant covenants and agrees that at all times *Tenant's* its use of electric current shall never exceed the capacity of the feeders to the Premises or the wiring installations therein.

6. Ownership of Improvements. Section 6.2 of the Lease shall be amended to read as follows (new language in bold italics):

All ***improvements and betterments alterations and additions made in and to the Premises by Tenant, its contractors, agents, employees, customers, sublessees, licensees and invitees, or anyone claiming by, through or under Tenant, shall become and remain the exclusive property of Landlord, upon completion, the property of Tenant for the***

duration of the Lease and become part of the Premises upon termination of such Lease, provided that with the exception of removable artwork, temporary partitions, theatrical lighting, kilns, and such other categories of equipment and furnishings as may be set forth in an addendum to this Lease, shall remain the property of Tenant and shall not become part of the Premises upon termination. directly related to Tenant's Use of the Premises, As owner of the assets it shall be the responsibility of Tenant to effect and maintain appropriate property insurance for the full value (replacement cost) of such improvements and betterments for the duration of the Lease.

7. Landlord's Use of Premises. The first paragraph of Section 7.2 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant shall make the "multi-purpose presentation and community gathering room", as shown on Exhibit A, available to Landlord from time to time for municipal and public service uses, *including as a polling place for municipal and general elections*, without cost to Landlord, and pursuant to a schedule to be arranged between Tenant and Landlord, such schedule to be consistent with Tenant's use, *provided that when a restaurant located within the Premises shall open for business, Landlord shall thereafter obtain Tenant's approval, such approval to be granted at Tenant's sole discretion, to use Premises as a polling place.*

8. Compliance with Laws, Regulations, and Codes; Hazardous Substances. The first paragraph of Section 7.3 of the Lease shall be amended as follows (new language in bold italics):

... Tenant hereby agrees to indemnify and hold harmless Landlord, and those claiming by, through and under Landlord, from and against any and all liability, loss, damage, costs, expenses (including, without limitation, reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature in any way suffered, incurred, or paid as a result of any release or threatened release of Hazardous Substances on or from the Premises which is caused or exacerbated by Tenant, its agents, employees, contractors, representatives, *licensees, sublessees*, or invitees. Neither party shall have responsibility to the other party, its agents, employees, representatives, *licensees, sublessees, permittees and-or invitees*, for the presence of Hazardous Substances located on the Premises prior to the Commencement Date, or be required to abate or remediate the same. ...

9. Assignment and Subleasing. Section 7.4 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant shall not assign, sublet, underlet, mortgage, pledge or encumber (collectively referred to as "Transfer") the Lease *or any interest or estate therein-in its entirety* without Landlord's prior written consent, *which such consent may not to be unreasonably be withheld if the use(s) of the Premises allowed pursuant to the terms of such Transfer fall within the Permitted Uses as defined in Section 2.2, herein, and the Transfer Documentation (defined herein) adequately demonstrates, in Landlord's reasonable determination, the Transferee's ability and willingness to satisfy the terms*

and conditions of the Transfer and this Lease, in Landlord's sole discretion. Consent by Landlord, whether express or implied, to any Transfer shall not constitute a waiver of Landlord's right to prohibit any subsequent Transfer; nor shall such consent be deemed a waiver of Landlord's right to terminate this Lease upon any subsequent Transfer. As used herein, the term "assign" or "assignment" shall be deemed to include, without limitation, any transfer of Tenant's interest in the Lease by operation of law. Nothing in this Section shall prevent or prohibit Tenant from renting or leasing studio, café, or other performance, exhibit, display, art-related retail or classroom space in the Premises in furtherance of Tenant's Use and as set forth in the Proposal without the Landlord's prior written consent, provided that "art-related retail" shall be defined as the sale of art work produced by guest artists or artists renting space in the Premises, and further provided that short-term (less than one-month) leases will not require Landlord consent.

With each Tenant request for approval of a Transfer of the Lease in its entirety, Tenant shall provide a written description of all material terms and conditions of the proposed Transfer, copies of the proposed documentation (or letter of intent if there is not yet any proposed lease, in which event Landlord's consent shall be conditional upon conformance of the final lease with the material terms and conditions provided to Landlord in the letter of intent), and the following information about the proposed transferee: name and address; reasonably satisfactory information about its business and business history; its proposed use of the Premises; and banking, financial, and other credit information, and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness (the "Transfer Documentation"). When Tenant requests approval of a Transfer of any interest or estate in the Lease less than its entirety, including but not limited to a sublease of the restaurant or cafe space, the Transfer Documentation shall include name and address; reasonably satisfactory information about its business and business history; and its proposed use of the Premises. For the avoidance of doubt, banking, financial and other credit information and general references sufficient to determine creditworthiness will not be required as part of the Transfer Documentation required for Tenant's sublessees.

Landlord shall act on a request for approval of Transfer within thirty (30) days, or such additional period as may reasonably be required for Landlord to review the Transfer Documentation and such additional information as Landlord may reasonably require. If Landlord consents to a proposed assignment, then the proposed transferee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder. No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee (and any guarantor), shall be jointly and severally liable therefor. In no event shall any Transfer release any guarantor from its obligations under this Lease, and after any Transfer any guarantor and the transferee shall remain jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. If an event of default as set forth in Article XII, herein, occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents

against Rent; provided, however, that such direct payment of rent to Landlord shall not be construed as making the transferee the new Tenant or otherwise construed as releasing Tenant or any guarantor from its obligations hereunder in any manner. Tenant authorizes its transferees to make payments of rent directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an event of default hereunder.

10. Landlord's Responsibility. Section 8.4 of the Lease shall be amended as follows (new language in bold italics):

~~Landlord shall be responsible for inspecting, maintaining, and repairing the heating system for the Premises, such system to include radiators, tanks, pipe, steam traps and boilers, provided that Tenant shall reimburse Landlord for the cost of any replacement parts required as a result of such maintenance and repair.~~ ***A favorable vote of the Dedham Town Meeting in May 2013 authorized the appropriation, transfer or borrowing of \$125,000 for the replacement of the boiler on the Premises. Landlord subsequently paid \$125,000, net of rebates, to purchase equipment for the Premises, and installed gas service. Landlord shall be solely responsible for removing oil service, including either the removal or certified safe drainage and/or sealing of the existing oil tank as required by state and federal law. Beginning on June 30 following said removal or safe sealing of the oil tank, Tenant shall pay to Landlord as Additional Rent, in ten (10) equal annual payments, fifty percent (50%) of the amount appropriated, or \$62,500.***

11. Indemnification. Section 9.1 of the Lease shall be amended to read as follows (new language in bold italics):

~~Tenant shall, during the term hereof, assume and maintain exclusive control of the Premises and defend, indemnify and save harmless Landlord from and against all claims, expenses or liability of whatever nature arising from any act, omission or negligence of Tenant, Tenant's contractors, agents, employees, customers, licensees and invitees, or anyone claiming by, through or under Tenant, or arising, directly or indirectly, from any accident, injury or damage whatsoever, however caused, to any person, or to the property of any person, in or about the Premises, or arising from any accident occurring outside the Premises but within the general area of the Premises, where such accident, injury or damage results or is claimed to have resulted from any act, omission or negligence on the part of Tenant or Tenant's contractors, agents, employees, customers, licensees and invitees, or anyone claiming by, through or under Tenant.~~

Tenant shall, during the term hereof, assume and maintain exclusive control of the Premises, and to the fullest extent permitted by law, shall hold harmless and defend Landlord and its officers, directors, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to, attorney fees, arising out of or resulting from the use and occupancy of the Premises by Tenant, its contractors, agents, employees, customers, sublessees, licensees and invitees, and anyone claiming by, through or under Tenant, provided that any such claim, damage, or loss or expense

(1) is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than to the Work itself) including loss of use resulting therefrom, and (2) is caused in whole or in part by any acts or omissions of the Tenant, its contractors, agents, employees, customers, sublessees, licensees and invitees or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

The foregoing indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, including attorneys' fees, and the defense thereof with counsel acceptable to Landlord or counsel selected by an insurance company which has accepted liability for any such claim.

12. Tenant's Insurance. Section 10.1 of the Lease shall be amended to read as follows (new language in bold italics):

Tenant shall obtain and keep in force at its own expense so long as this Lease remains in effect and thereafter so long as Tenant, or anyone claiming by, through or under Tenant, uses or occupies the Premises or any part thereof, policies of insurance for the benefit of such parties, in the amounts, and in the manner and form set forth in this Section; provided, however, that amounts of insurance coverage may from time to time be increased. Tenant shall furnish certificates evidencing each such insurance coverage to Landlord prior to the execution of this Lease (to the extent such insurance is appropriate at such time) and providing that the insurer shall give Landlord written notice at least thirty (30) days in advance of any termination, expiration or any and all changes in coverage. The kinds and amounts of such insurance coverage shall not be less than the kinds and amounts designated herein, and Tenant agrees that the stipulation herein of the kinds and minimum amounts of insurance coverage, or the acceptance by Landlord of Certificates of Insurance indicating the kinds and limits of coverage shall in no way limit the liability of Tenant to any such kinds and amounts of insurance coverage.

Tenant shall maintain Workers Compensation, General Liability, Automobile and Umbrella insurance for the minimum amount required or as outlined below, whichever limits and coverage are higher, insuring Tenant, Landlord, and their agents and assigns against all liability for bodily injury, including death resulting therefrom, personal injury and property damage arising from the use and occupancy of the Premises by Tenant, its contractors, agents, employees, customers, sublessees, licensees and invitees, and anyone claiming by, through or under Tenant. Insurance coverage and Certificates of Insurance shall be provided and include Town of Dedham as an additional insured on a primary and non-contributory basis under the General Liability & Umbrella policies. The Workers Compensation shall include a waiver of subrogation in favor of Town of Dedham.

Minimum required insurance limits (coverage written on an occurrence basis):

Commercial General Liability

- **\$ 2,000,000 Products / Completed Operations Aggregate Limit**

- *\$ 2,000,000 General Aggregate (Other Than Products / Completed Operations)*
- *\$ 1,000,000 Any One Occurrence*
- *\$ 1,000,000 Personal & Advertising Injury*

Automobile Liability (All Owned, Non-Owned & Hired Autos)

- *\$1,000,000 Each Accident (Combined Single Limit)*

Commercial Umbrella

- *\$ 1,000,000 Products / Completed Operations*
- *\$ 1,000,000 General Aggregate*
- *\$ 1,000,000 Any One Occurrence*

Employers Liability

- *\$ 500,000 Each Accident*
- *\$ 500,000 Each Employee for Injury by Disease*
- *\$ 500,000 Aggregate for Injury by Disease*

Such coverage shall extend and be included under any Commercial Umbrella Policy purchased by the Tenant.

~~(a) — Commercial General Liability Insurance: A Comprehensive General Liability policy on an occurrence basis endorsed to include broad form comprehensive general liability with a limit of not less than \$1,000,000.00 per occurrence and \$2,000,000 per aggregate. The policy shall name Landlord, and its officers, agents, servants, employees and consultants as additional insured parties. Tenant and its insurers shall waive all rights of subrogation against the Town;~~

~~(b) — Worker's Compensation Insurance: Tenant and any subtenants, as applicable, shall provide Workers' Compensation Insurance required by law and the Employer's Liability insurance for at least the amounts of liability for bodily injury by accident of \$100,000.00 each accident; bodily injury by disease each employee of \$100,000.00; and bodily injury by disease policy limit of \$500,000.00, or such greater amount as may be required from time to time by the laws of the Commonwealth of Massachusetts. Tenant and its contractors, subcontractors and independent contractors and their insurers shall waive all rights of subrogation against the Town, and its officers, agents, servants, and employees for losses arising from work performed by each;~~

~~(c) — Automobile Liability and Property Damage insurance for any auto, including but not limited to coverage for owned, non-owned and hired automobiles, in the amount of \$1,000,000 combined single limit (bodily injury and property damage);~~

~~(d) — Umbrella/Excess Liability Insurance: An Umbrella/Excess Liability insurance policy on an occurrence basis "following form" of the primary coverage with a limit of liability of \$5,000,000.00. The Umbrella/Excess Liability insurance policy shall include but not be limited to the following coverages for bodily injury, property damage~~

~~and personal injury: (i) Premises—Operations Liability; (ii) Contractual Liability; (iii) Automobile Liability for owned, non-owned and hired vehicles. Landlord, its officers, agents, servants and employees shall be named as additional insured parties.~~

——(e)—— Should Tenant choose to make improvements to the building as discussed in Section 6.1, Tenant will be required to provide Landlord with evidence that Tenant has required its contractors to maintain (i) worker's compensation insurance in the amounts required by law (or reasonably comparable insurance if such insurance is no longer available), (ii) builder's risk (or such reasonably comparable insurance) insurance on an "all risk" basis (including collapse) insuring against casualty to such construction for full replacement value of the work performed and the equipment supplies and materials furnished and stored, (iii) automobile liability insurance in the minimum amounts required by law with limits of liability not less than \$1,000,000 per occurrence for property damage and \$2,000,000 combined single limit, (iv) Employer's Liability Insurance affording protection in the amount of not less than \$500,000 per accident and \$500,000 for disease, (v) public liability insurance within limits in an amount not less than \$3,000,000 comprehensive general liability total with a limit of \$1,000,000 an occurrence, and (vi) Professional/Environmental Impairment Liability Insurance providing coverage for environmental contamination, bodily injury and/or property damage arising out of acts and omissions of Tenant or its contractors, employees or agents in the performance of the Permitted Uses or any other activities or failures to act at or with respect to the Premises in the amount of \$1,000,000 for each claim and \$1,000,000 in the aggregate (which insurance, unlike the other insurance noted above, may be made on a claims made basis). Tenant shall require that Landlord, and its officers, agents, servants and employees be named as additional insureds on all subtenants, concessionaires, subcontractor's and independent contractor's insurance, excluding Workers' Compensation.

Landlord shall have the right to require Tenant to increase such limits when, during the term of this Lease, minimum limits of liability insurance commonly and customarily carried on properties comparable to the Premises by responsible owners or tenants are more or less generally increased, it being the intention of this sentence to require Tenant to take account of inflation in establishing minimum limits of liability insurance maintained from time to time on the Premises.

Landlord shall have the same rights and remedies for the non-payment by Tenant to Landlord of amounts due on account of insurance premiums as Landlord has under this Lease for the failure of Tenant to pay the Rent.

13. Personal Property. Section 10.12 of the Lease shall be amended as follows (new language in bold italics):

Tenant agrees that Landlord shall have no responsibility or liability for any loss or damage or injury to from any cause whatsoever, including theft or otherwise of fixtures, improvements, or other personal property of Tenant, ***its contractors, agents, employees, customers, sublessees, licensees and invitees, or anyone claiming by, through or under***

Tenant. Tenant agrees that it shall continuously keep *or cause to be insured such its* fixtures, merchandise (if any), equipment and other personal property from time to time located in, on or about the Premises, and all leasehold improvements to the Premises constructed or installed by Tenant, *its contractors, agents, employees, customers, sublessees, licensees and invitees, or anyone claiming by, through or under Tenant,* insured by reputable, duly licensed insurance companies against loss or damage by fire with the usual extended coverage endorsements. Within a reasonable time after Tenant enters the Premises, no less often than annually thereafter, and at any other time upon the request of Landlord, Tenant shall furnish to Landlord evidence of such continuous insurance coverage satisfactory to Landlord. It is understood and agreed that Tenant assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise.

14. Termination; Default. Article XII of the Lease shall be amended as follows (new language in bold italics):

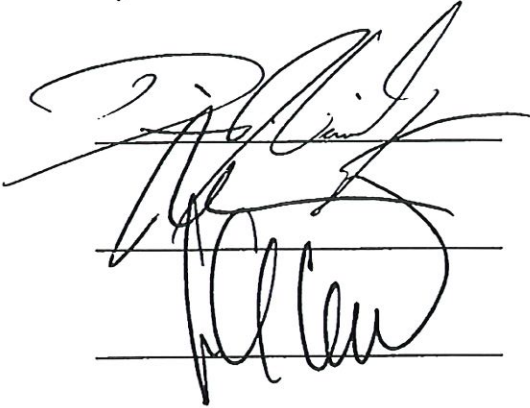
In the event that . . . then Landlord shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises, to declare the Term of this Lease *and all subleases, licenses, and agreements made thereunder* ended, and remove ~~Tenant's~~ *all effects from the Premises not belonging to Landlord*, without prejudice to any other remedy which may be available to Landlord. . . .

[SIGNATURES ON FOLLOWING PAGE]

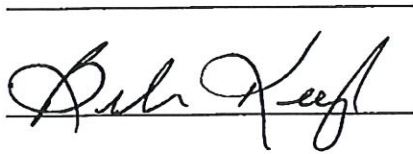
IN WITNESS WHEREOF, this First Amendment of Lease has been executed in duplicate by the parties hereto, under seal, as of the Effective Date.

LANDLORD:

TOWN OF DEDHAM,
By its Board of Selectmen



Handwritten signature of a representative of the Town of Dedham, written over three horizontal lines.



Handwritten signature of a representative of the Town of Dedham, written over two horizontal lines.

TENANT:

**MOTHER BROOK ARTS AND
COMMUNITY CENTER, INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

558291/DEDH/0172

Memorandum of Understanding

Between the

Town of Dedham and the Mother Brook Arts and Community Center

This Memorandum of Understanding (the Agreement) between the Town of Dedham (hereinafter referred to as "the Town") and the Mother Brook Arts and Community Center's Board of Directors (hereinafter referred to as "the MBACC") has been drafted to address several items that will occur based upon the understanding of the parties and that this Agreement shall be supplemental to the Lease document that outlines and defines the terms and conditions regarding the use of the former Avery School. Specifically, the parties have agreed to the following supplemental conditions:

- The MBACC shall have access to the land and buildings located at 123 High Street, effective on January 18, 2013 for the purposes of preparing for their planned use of said property;
- Executive Directors will meet with the Town's Director of Facilities and Maintenance to determine what furniture and other odds and ends are to remain with the Building and what items are to be removed. The Town will remove all unwanted items and debris from the Premises. The estimated time line for completion is thirty (30) days from the approval date of this Memorandum;
- The Town will remove the basketball hoops and poles from paved areas to allow striping of the parking lot. The estimated time line for completion is April or May of 2013;
- The Town will restripe the front lot and stripe the back lot based on the availability of staff to perform such work but not later than ten months from that date that the MBACC occupies the former Avery School property. A copy of the parking lot striping plan prepared at MBACC expense and accepted by the Planning Board has been provided to the Town and has been forwarded to the Public Works Department. The estimated time line for completions is June 1, 2013;
- The Town will disassemble and remove the playground equipment. If the Mother Brook Community Group (MBCG) or any other entity wishes to have the equipment reinstalled at another location, the cost to assemble the same will be borne by others and not by the parties to this Agreement. The estimated time line to complete this work is June 1, 2013;
- The Town has retained the right to use and/or lease a portion of the former Avery School for the installation and maintenance of a telecommunications facility. The landlord will negotiate in good faith with the facility owner/operator to upgrade the electrical service to the building in a manner that will benefit the use of the entire property. These electrical

upgrades will be at no cost to MBACC. To the extent possible, the telecommunications equipment will be located in an area on the property that will not interfere with the intended use of the property by the MBACC. Any required approvals or permits required by the Town to construct the telecommunications facility will be the responsibility of either the telecommunication company or the Town. To the extent possible, the proposed telecommunications use of the property will not take up any of MBACC's defined parking spaces (reference the parking plan described in item three above). It is the collective understanding of the parties that any reduction or alternative use of MBACC's parking spaces could trigger additional review by the Dedham Planning Board. If such review becomes necessary based on the telecommunications use of the property, the cost of such review and any resulting changes to the parking requirements to the parking lot would be borne by either the Town or the telecommunications company.

- Any heating oil remaining in the fuel tank of the former Avery School, at the commencement of the lease, will accrue to the benefit and without cost to the MBACC.

The parties agree to the terms as presented above on this the 17th day of January, 2013.

For the Town,

For the MBCAC,

