



CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager *Richard C. Rossi, Deputy City Manager*

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December 6, 2004

To the Honorable, the City Council:

I am extremely pleased to transmit a copy of the first ever written PILOT agreement between the Massachusetts Institute of Technology (MIT) and the City of Cambridge. The agreement is the result of many months of negotiations and cooperation by all parties.

Most importantly, the agreement provides a Revenue Protection component which protects the City's tax base into the middle of this century. As the City Council is aware, MIT is the City's largest taxpayer, paying in excess of ten percent of the commercial taxes levied in the City. The potential for those now taxable properties to be converted to tax exempt was a very serious concern not only to the City, but also to MIT. They have made investments in Cambridge real estate a significant portion of their investment portfolio. The well-being of the City's fiscal health is important to the Institute. This agreement provides for a complicated set of revenue protections so that conversions to tax exempt status would not dramatically impact that fiscal health.

While MIT has made Voluntary PILOT payments for many years, this is the first time that this important commitment has been entered into in writing. President Vest and I signed this agreement at 4:00 pm last Friday, in one of President Vest's last official acts. It is certainly a testimony to the President's commitment to Cambridge. In one of his earliest community benefit actions, President Vest agreed to the site and construction of the building that houses CASPAR's Emergency Services Center. On Friday, he concluded his successful tenure at MIT with the signing of this milestone agreement.

The Massachusetts Institute of Technology should be highly commended for their willingness to commit to the future financial well-being of this great City that they are proudly such an important part of.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

1. President Vest Letter
2. Executive Summary
3. Executed Agreement



CHARLES M. VEST, PRESIDENT

ROOM 3-208
77 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139-4307
617-253-0148

December 3, 2004

Honorable Members of the
Cambridge City Council
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Mayor Sullivan, Vice Mayor Decker, and Councillors Davis, Galluccio, Maher, Murphy, Reeves, Simmons, and Toomey:

I am pleased to enclose MIT's new tax protection agreement with the City of Cambridge. As you know, City Manager Bob Healy wrote to me in 2001 after MIT purchased the Technology Square property and made clear his concern about the possibility of MIT one day taking this large parcel off the tax rolls to be used for academic purposes.

In my reply to Bob, I pledged that MIT would develop a mutually satisfactory methodology to help mitigate the financial impact to the City incurred by MIT's legal removal of any property from the tax rolls. Further, I promised that this methodology would be embodied in a new written PILOT agreement.

The City/MIT negotiations leading to the final agreement were complex and took longer than any of us expected. However, the finished product delivers exactly what Bob had asked MIT to provide. The agreement ensures long-term tax protection for the City of Cambridge and includes a 20-percent increase in MIT's annual voluntary PILOT contribution.

In signing the agreement with Bob on the last day of my presidency, I thanked him for his strong stewardship of this wonderful City. I told him how pleased I was that MIT could provide the City with an enhanced ability to manage its budget because of the predictability inherent in the agreement. I am happy to have been able to complete this important effort before the end of my tenure.

I would like to thank all of you for your keen focus on the City's financial health and your direct message to the Institute that this topic must be addressed. I would also like to thank you for our productive work together over these last 14 years. I deeply respect your commitment to this vibrant City and am grateful for the opportunity that I have had to see you in action as you strive to represent all citizens of Cambridge.

With best wishes to all of you,

Sincerely yours,

A handwritten signature in cursive script that reads "Charles M. Vest".

Charles M. Vest

Enclosure

Background Facts for PILOT Announcement

MIT's New PILOT Agreement

The new 40-year agreement provides long-term tax protection for the City of Cambridge and includes a 20% increase in MIT's base payment in lieu of tax contribution, as well as an annual 2.5% escalator (see attached terms).

In the course of the 40-year agreement, MIT will pay the City a minimum of \$101.4 million in PILOT contributions.

The City will have an enhanced ability to manage its finances because of the predictability inherent in the agreement.

MIT's Financial Contributions to the City of Cambridge

MIT's FY 2004 real estate tax payment to Cambridge was \$23,487,606 (see attached charts of top ten taxpayers in Cambridge, and PILOT and real estate taxes 1995-2004).

Factoring in voluntary PILOT contributions and city fees and permits, MIT paid a total amount of \$30,699,692 to the City in FY 2004 (see attached chart of payments to the City of Cambridge).

MIT's "Cambridge First" purchasing policy resulted in the purchase of \$39,519,046 in goods and services from City-based vendors in FY 2004.

MIT is involved in several major public improvement projects within the City. The Institute's contributions to these public projects add up to over \$18.9 million since 2000 (see attached chart of Public Benefit Contributions).

MIT's Impact on the Cambridge Economy

There are at least 74 biotech firms located within a mile of the MIT campus. These companies have chosen to be near MIT in large part to have access to MIT's community of researchers and academicians.

MIT is the second largest employer in Cambridge with 7114 employees (see attached chart of 25 Cambridge employers).

When MIT invests in property for commercial purposes, the real estate tax payments increase as the institute enhances the property for tenants. For example, the 2001 taxes paid by MIT on Technology Square, One Broadway, 640 Memorial Drive, and 28 Osborn Street was \$3,272,156. After tenant improvements, these same properties paid \$8,779,539 in taxes in 2004 (a 37 % increase). See attached summary of MIT real estate taxes 2000-2004.

MIT owns 157 tax-exempt acres that are used for educational purposes. This represents 4.66 % of the City's total land area. In total, the Institute owns 241 acres of land.

Massachusetts Institute of Technology, Office of the Senior Counsel
Attorney-Client Privileged Communication

FINAL MIT-Cambridge PILOT Agreement
Key Business Terms
December 2, 2004 Executive Committee Meeting

1. An up to 40-year Term (in 10 year increments, automatically extending unless MIT notifies the City of non-extension).
2. During the Term, an annual base payment in lieu of taxes for existing exempt property. In FY05, the base payment is \$1,254,000 (the FY04 voluntary payment plus 2.5%) and a permanent base payment increase of \$250,000, for a total base payment of \$1,504,000.
3. An escalation of the base payment of 2.5% per year each year during the Term, beginning in FY06.
4. A tax protection period of 40 years for each taxable property converted to a tax exempt property during the Term. The 40 year tax protection period begins in the year when a property first becomes exempt from taxes and continues (even beyond the Term) for 39 additional years. Each property has its own tax protection period.
5. Protection in the form of an additional payment in lieu of taxes made annually during the tax protection period for each taxable property that is converted from taxable to tax exempt during the Term. The additional payment is equal to the regular tax payment owed on the property in the year of the property's conversion from taxable to tax exempt ("conversion year taxes"). The payment is made in the first year when the exemption becomes effective and escalates thereafter at 3% per year.
6. The additional payment may be offset and eliminated or reduced under the following allowances:
 - a. Subject to a phase-in period (see 6.b below), taxable properties collectively representing 2.5% of the City's total tax levy may be converted to tax exempt property during the Term (including extension periods) without additional payments being owed;
 - b. During each of the first three years of a four year phase-in period, a portion of the conversion year taxes is owed for property as if the 2.5% allowance did not exist (i.e., 100% of the conversion year taxes are owed in the first year, 66.67% in the second year, 33.33% in the third year, and, in the fourth year, the full allowance is applied and can eliminate the additional payment entirely or reduce it, depending on how much of the allowance remains);

- c. Properties converted from taxable to tax exempt in any given year cannot represent taxes exceeding 0.5% of City's total tax levy for that year.
7. Credit (increase of the then existing allowance) when exempt property is converted to taxable property, allowing conversions to taxable property to offset conversions to tax-exempt property with no additional payments, provided there is no net adverse effect on the City's tax base.
8. Credit for early advance notice on properties to be removed from tax rolls (shorter or no transition payment period, depending on timing of notice).
9. Tax relief for a portion of any taxable property on which student housing or public open space is created, with the qualification for and amount of the relief to be equitably agreed upon by MIT and the City Manager.
10. Credit (increase of the then existing allowance) for public improvements above and beyond those typically required of other development projects in the City to be agreed upon by MIT and the City Manager.
11. Mutual termination rights for specified causes, with agreement or dispute resolution determining whether cause exists.
12. Disputes to be resolved by mediation and, if that fails, by litigation or, at either party's option prior to the close of evidence, by binding arbitration.
13. The City agrees to use best reasonable efforts to defend any third-party challenge of the agreement's validity against the City. MIT similarly agrees if a third party challenge is filed against MIT.

**CITY OF CAMBRIDGE
10 LARGEST TAXPAYERS
Fiscal Year 2004 (1)**

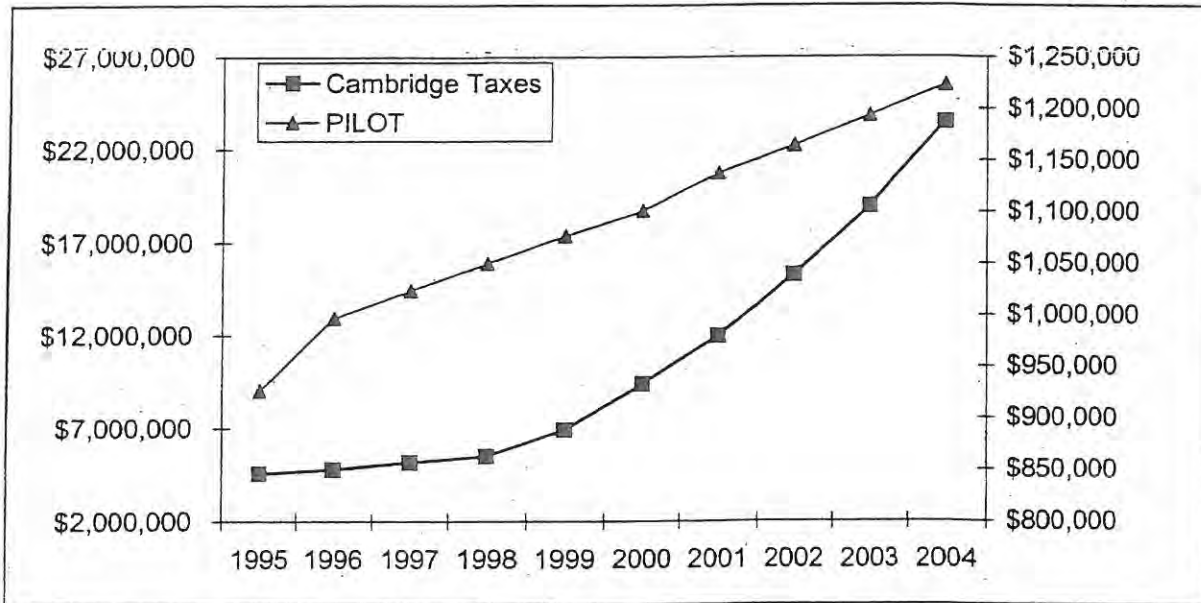
<u>Owner</u>	<u>Nature of Business</u>	<u>Assessed Valuation</u>	<u>Amount of Taxes</u>	<u>% of Total Tax Levy</u>
Mass. Institute of Technology.....	Educational	\$1,221,886,000	\$22,209,847 (1)	10.60%
Boston Properties.....	Commercial	374,520,900	7,145,859	3.41%
Lyme Properties.....	Commercial	303,850,700	5,703,775	2.72%
Equity Partners.....	Commercial	221,228,500	4,221,040	2.01%
One Kendall Square LLC.....	Commercial	198,930,100	3,768,474	1.80%
Riverfront LLC.....	Commercial	191,337,400	3,665,718	1.75%
Presidents and Fellows of Harvard College.....	Educational	260,220,900	3,127,956 (2)	1.49%
The Bulfinch Company.....	Commercial	149,250,600	2,847,701	1.36%
New England Development.....	Commercial	142,429,600	2,717,557	1.30%
G. E. Capital Investment Advisors.....	Commercial	114,271,000	2,180,291	1.04%
Total.....		<u>3,177,925,700</u>	<u>57,588,218</u>	<u>27.48%</u>

(1) As of January 1, 2003

(2) Excludes in lieu payments on exempt property.

Source: City Department of Finance.

	Cambridge Taxes	PILOT
1995	\$4,564,082	\$926,479
1996	\$4,788,740	\$996,571
1997	\$5,155,707	\$1,023,571
1998	\$5,486,564	\$1,049,571
1999	\$6,911,353	\$1,076,571
2000	\$9,372,095	\$1,100,571
2001	\$11,927,466	\$1,137,000
2002	\$15,229,701	\$1,164,000
2003	\$18,930,865	\$1,193,000
2004	\$23,487,606	\$1,223,000



F. PAYMENTS TO CITY OF CAMBRIDGE:¹⁶

	FY 01	FY 02	FY 03	FY 04
Real Estate Taxes Paid ¹⁷ :	\$11,927,466	\$15,229,701	\$18,930,865	\$23,487,606
Payment in Lieu of Taxes (PILOT):	\$1,137,000	\$1,164,000	\$1,193,000	\$1,223,000
Water & Sewer Fees Paid:	\$3,649,629	\$3,715,171	\$4,739,167	\$4,235,501
Other Fees & Permits Paid:	\$2,501,324	\$3,829,294	\$2,909,611	\$1,753,585
TOTAL PAYMENTS	\$19,215,419	\$23,938,166	\$27,772,643	\$30,699,692

Cambridge First Purchasing Policy	\$37,890,431	\$41,387,889	\$34,940,041	\$39,519,046
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¹⁶ Fiscal Years for the City of Cambridge begin on July 1 and end on June 30 of the following year.

¹⁷ Includes real estate taxes paid on MIT-owned property, taxes paid on MIT-owned property by University Park and 100 Memorial Drive, and real estate taxes generated by Independent Living Groups.

Revised 1-Dec-04

MIT Public Benefit Contributions 2000-2004

Cambridgeport Roadways	\$	3,000,000	
Storm Drain Agreement	\$	3,000,000	
Vassar Street East	\$	11,050,000	
Memorial Drive Traffic Signals Wadsworth Street and Endicott Street	\$	1,200,000	
Massachusetts Ave./Memorial Drive Cash Contribution	\$	565,000	
In-kind Contribution	\$	100,000	
Total	\$	18,915,000	
Vassar Street West	\$	15,915,000	Planned for 2005 start



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Top 25 Cambridge Employers: 2004

Select an employer's name and you will go to the careers page on that organizations website.

2004 Rank	NAME OF EMPLOYER	BUSINESS	2003 Rank	EMPLOYEES ¹
1	HARVARD UNIVERSITY	HIGHER EDUCATION	1	10,142
2	MASSACHUSETTS INSTITUTE OF TECHNOLOGY	HIGHER EDUCATION	2	7,114
3	CITY OF CAMBRIDGE ²	GOVERNMENT	3	3,196
4	CAMBRIDGE HEALTH ALLIANCE	MEDICAL	4	1,796
5	MT. AUBURN HOSPITAL	MEDICAL	7	1,790
6	FEDERAL GOVERNMENT	GOVERNMENT	5	1,614
7	BIOPEN IDEC	BIOTECHNOLOGY	6	1,597
8	MILLENNIUM PHARMACEUTICALS	BIOTECHNOLOGY	8	1,475
9	GENZYME CORPORATION	BIOTECHNOLOGY	9	1,100
10	DRAPER LABORATORY	RESEARCH and DEVELOPMENT	10	970
11	WYETH CAMBRIDGE	BIOTECHNOLOGY	11	748
12	QUEST DIAGNOSTICS	CLINICAL TESTING SERVICES	16	741
13	COMMONWEALTH OF MASSACHUSETTS	GOVERNMENT	13	620
14	NOVARTIS INSTITUTE FOR BIOMEDICAL RESEARCH ³	BIOTECHNOLOGY	NA	593
15	CAMP, DRESSER, and MCKEE	ENGINEERING CONSULTANTS	14	592
16	AKAMAI TECHNOLOGIES ³	INTERNET	31	589
17	LESLEY UNIVERSITY	HIGHER EDUCATION	15	541
18	WHOLE FOODS/ BREAD and CIRCUS	RETAIL SUPERMARKET	19	515
19	SHAWS SUPERMARKETS/ STAR MARKET	RETAIL SUPERMARKET	20	510
20	WHITEHEAD INSTITUTE	RESEARCH and DEVELOPMENT	12	500
21	VERTEX PHARMACEUTICALS	BIOTECHNOLOGY	18	491
22	EF INTERNATIONAL	TRAVEL and EXCHANGE PROGRAMS	21	475
23	GRACE CONSTRUCTION	CONSTRUCTION PRODUCTS	17	424
24	ART ASSOCIATES	MANAGEMENT CONSULTING	22	415
25	MONITOR GROUP	MANAGEMENT CONSULTING	24	413
TOTAL:				38,961

1. All figures collected between 7/04 and 10/04. All figures reflect employment within the City of Cambridge. Whenever possible, totals are based on Full Time Equivalents (FTEs). Part time workers were counted as 0.5 FTEs, unless otherwise indicated by employer response.

2. City of Cambridge figures include School Department employees.

3. Not on 2003 Top 25 list. Akamai Technologies was among the Top 25 Employers at various times in the past. Novartis is new to the list, having relocated its research and development headquarters to Cambridge within the past two years.

4. Employers dropped from list since 2003 include Youville Hospital and Marriot.

Source: Cambridge Community Development Department and cited employers, 2004.

MIT Cambridge Real Estate Taxes

	2000	2001	2002	2003	2004
Direct Payments					
Technology Square	-	1,405,007	3,190,990	4,292,670	5,825,160
28 Osborn Street	169,168	180,859	157,992	416,414	1,192,048
One Broadway	791,715	846,421	993,510	1,015,699	934,204
640 Memorial Drive	785,925	839,869	906,900	900,149	828,127
Other Cambridge Properties	3,265,870	3,526,099	3,596,377	3,934,005	4,187,272
Total Direct Payments	5,012,678	6,798,255	8,845,769	10,558,938	12,966,811
Indirect Payments					
University Park Payments	4,345,026	5,070,955	5,968,301	8,035,106	10,520,795
Total Indirect Payments	4,345,026	5,070,955	5,968,301	8,035,106	10,520,795
Grand Total Real Estate Taxes	9,357,704	11,869,210	14,814,070	18,594,044	23,487,606

AGREEMENT

This Agreement ("Agreement") is made and entered into as of July 1, 2004 ("Effective Date") by and between the Massachusetts Institute of Technology, a Massachusetts not-for-profit corporation ("MIT"), and the City of Cambridge, a municipal corporation organized under the laws of The Commonwealth of Massachusetts ("City"). Capitalized terms not otherwise defined in this Agreement shall have the meanings given them in Exhibit A, which is attached to and incorporated in this Agreement.

PREAMBLE

WHEREAS, the City and MIT have many interests in common, and, consequently, they seek to achieve shared goals for their mutual benefit;

WHEREAS, the City represents an economically, ethnically, racially, technologically, and intellectually diverse and culturally rich community with many important needs; and the City provides valuable services and leadership to all of its citizens;

WHEREAS, MIT is one of the City's major institutional citizens, and takes the responsibilities of its citizenship seriously, even beyond its legal obligations;

WHEREAS, the presence of MIT in the City contributes materially to the City's quality of life and economic vitality, because MIT is a world renowned institute of higher education and scientific research, a major employer, and a catalyst and resource for business, cultural, educational, charitable, commercial, and research activities and advancement;

WHEREAS, in addition to its other contributions, MIT has been making certain voluntary payments to the City in connection with MIT's tax-exempt properties for many years;

WHEREAS, it is in the best interests of the City's residents and MIT's employees and students – a large number of whom are City residents – that the City and MIT continue to work together closely on matters of mutual interest and concern;

WHEREAS, the City and MIT seek to confirm their shared commitment to the present and future well-being of both the City and MIT; and MIT seeks to continue to appropriately contribute to the quality of life in Cambridge; and

WHEREAS, for the reasons stated above, and pursuant to the terms of this Agreement, the City and MIT have agreed that MIT will increase its voluntary direct financial support of the City in circumstances in which MIT would not otherwise be obligated to pay real property taxes to the City under applicable law, which direct financial support, in addition to other economic enhancements provided by MIT as summarized above, will help protect the City's existing property tax revenue base;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, MIT and the City agree as follows:

1. **MIT Commitment to Increased Annual Contribution to the City.** In each fiscal tax year during the periods set forth in this Section, MIT shall make a direct financial contribution to the City (the "Annual Contribution"), and the City shall accept the Annual Contribution in full satisfaction of MIT's obligations to make payments to the City under this Agreement and/or applicable law (whether now in effect or, subject to Section 4, hereafter amended or adopted) on account of real property used for Exempt Purposes. During the Term, the Annual Contribution shall consist of the sum of (i) the "Base Contribution" more particularly described in Section 2 below, and (ii) any "Additional Annual Contribution" more particularly described in Section 3 below; and after the Term during the balance of any Tax Protection Period(s) defined in Section 3 below, the Annual Contribution shall consist of any Additional Annual Contribution. MIT, in connection with the payment to the City of each Annual Contribution, shall submit a signed report showing the calculation of such Annual Contribution in the form of Exhibit B, which is attached to and made a part of this Agreement.

2. **Increasing Base Contribution To Be Made By MIT.** The "Base Contribution" shall be an annual total lump sum amount to be paid by MIT to the City pursuant to this Agreement by the 20th day of June of each fiscal tax year during the Term beginning in fiscal tax year 2005. For fiscal tax year 2005, the total Base Contribution shall be equal to One Million Two Hundred Fifty-Four Thousand and 00/100 Dollars (\$1,254,000.00) plus Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000) (which sum is based on MIT's prior practice of making voluntary base payments plus a lump sum increase in the base) for a total of One Million Five Hundred Four Thousand and 00/100 Dollars (\$1,504,000.00). Beginning with fiscal tax year 2006, and continuing throughout the Term, the amount of the Base Contribution shall be increased annually by two and one half percent (2.5 %) over the Base Contribution for the prior fiscal tax year.

3. **Additional Annual Contribution To Be Made By MIT During the 40-Year "Tax Protection Period".** In the event at any time, and from time to time during the Term, that either (i) MIT acquires for an Exempt Purpose an interest in real property located in the City that, prior to the time of such acquisition, is subject to real property taxation or (ii) MIT changes the use of real property owned by MIT that is prior to the time of such change of use subject to real property taxation, and (iii) thereafter MIT uses such property for an Exempt Purpose (the events in clause i or ii and clause iii above, when occurring during the Term, being a "Conversion"), then upon each such Conversion, beginning in the first full fiscal tax year in which such property is exempt from taxation, provided that fiscal tax year occurs during the Term and subject to the other provisions of this Section 3 below, MIT shall make an additional annual contribution to the City equal to the regular real property taxes owed to the City on such property for the fiscal tax year of its Conversion (such amount being the "Additional Annual Contribution Per Property" applicable to that property in the first full fiscal tax year in which it is exempt from taxation after its Conversion). Beginning in the second full fiscal tax year in which such property is exempt from taxation as a consequence of its Conversion, and continuing thereafter for 38 full fiscal tax years (the first full fiscal tax year in which a property that is subject to Conversion becomes exempt from taxation during the Term, plus the 39 fiscal tax years thereafter, being the 40-year "Tax Protection Period" relevant to that property), the amount of the Additional Annual Contribution Per Property for that property shall be increased annually by three percent (3%) over the amount of such Additional Annual Contribution Per Property for the previous fiscal tax

year; provided, however, that any such Additional Annual Contribution Per Property shall increase as specified in this sentence, only if (without taking into account the effect of the "Phase In Period" referenced below) there is no "Limited Deduction Allowance" (defined below) applicable to the relevant property in the first year of the property's Tax Protection Period, and shall continue only as long as, and to the extent that, the relevant property is used by MIT, at its option, for Exempt Purposes.

The sum of all Additional Annual Contributions Per Property for a particular fiscal tax year is referred to as the "Additional Annual Contribution" for such fiscal tax year and, subject to any offset under other provisions of this Section 3 below, shall be paid by MIT to the City in its Annual Contribution by the 20th day of June of each fiscal tax year for which payment is due. Unless and until such time as any real property owned or acquired by MIT is in fact used for Exempt Purposes, it shall continue to be taxable to the extent then taxable under Massachusetts law.

The parties recognize that MIT owns commercial, taxable properties in the City of Cambridge, which tax-paying properties MIT purchased with the expectation that they may be subject to Conversion by MIT and tax exemption over time, and that such Conversion and tax exemption is MIT's legal right. The parties further recognize, although MIT's presence and tax exempt uses and activities in the City provide significant economic benefits, including the attraction of taxable uses, residents and consumers to the City, that MIT wishes to provide predictability and stability for the City's property tax base. For all of these reasons, the City and MIT agree that limited Conversions and tax exemptions may occur without, or with reduced, Additional Annual Contributions Per Property being made during the relevant Tax Protection Periods. The determination of those Conversions and resulting tax exemptions that may occur without, or with reduced, Additional Annual Contributions Per Property being owed, shall be based on the "Available Allowance Percentage" (as defined in this Section 3 and Exhibit C, attached to and incorporated in this Agreement) at the time of a property's Conversion, and the "City's Total Tax Levy" (as defined in Exhibit A) for that fiscal tax year. The "Available Allowance Percentage" as of the Effective Date is 2.5% and, as described in detail in Exhibit C, the Available Allowance Percentage shall be reduced each time any portion of it is used to derive the "Limited Deduction Allowance" that is applicable to a property which is subject to Conversion and becomes exempt from taxation during the Term. The Available Allowance Percentage shall also be adjusted as provided in clauses v, vi, and ix below.

The "Limited Deduction Allowance" that is applicable to any particular property under this Agreement, is defined as an amount equal to the Available Allowance Percentage (at the time of that property's Conversion) multiplied by the then current amount of the "City's Total Tax Levy" for the fiscal tax year of that property's Conversion as more particularly defined and calculated in Exhibit C. Each property that is subject to Conversion and becomes exempt from taxation during the Term, has a different Available Allowance Percentage and, consequently, a different Limited Deduction Allowance as more fully described and calculated in Exhibit C. Subject to the provisions and limitations (including phase-in requirements) set forth below, each year during the Tax Protection Period applicable to a property under this Agreement, MIT may deduct the Limited Deduction Allowance applicable to that property from, and thereby fully offset and eliminate or reduce, the Additional Annual Contribution Per Property applicable to that property. Notwithstanding any other provision of this Agreement, if in the first year of a

property's Tax Protection Period (without considering the effect of the "Phase In Period" described below) the Additional Annual Contribution Per Property that is applicable to the property under this Agreement (i.e., the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion) is fully offset and eliminated by the Limited Deduction Allowance applicable to that property, then, except only during "Year One" through "Year Three" of the "Phase In Period" (as more specifically provided in clauses i through iii below), MIT shall not owe any taxes, Additional Annual Contribution Per Property, or other payments on that property under this Agreement for so long as that property is used for Exempt Purposes. The provisions of this Agreement governing payment of each Additional Annual Contribution Per Property and deduction therefrom of the applicable Limited Deduction Allowance during the applicable Tax Protection Period shall, except as provided in Sections 4 and 6(b), survive the expiration or earlier termination of this Agreement.

In order to provide additional predictability and stability for the City, any Additional Annual Contribution Per Property, Available Allowance Percentage and Limited Deduction Allowance applicable to a property under this Agreement shall be subject to the following limitations (including phase-in provisions) and other terms (collectively, "Adjustments"):

i. Year One of Phase In Period: During the first year of a property's Tax Protection Period ("Year One of the Phase In Period"), MIT shall pay the City the full amount of the relevant Additional Annual Contribution Per Property (i.e., the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion), without any deduction of the applicable Limited Deduction Allowance.

ii. Year Two of Phase In Period: During the second year of the property's Tax Protection Period ("Year Two of the Phase In Period"), MIT may deduct a portion of the applicable Limited Deduction Allowance from and reduce the relevant Additional Annual Contribution Per Property, so long as MIT shall pay the City the greater of (a) 66.67% of the relevant Additional Annual Contribution Per Property for the subject property (i.e., 66.67% of the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion), or (b) the amount equal to such Additional Annual Contribution Per Property minus the property's Limited Deduction Allowance. If the amounts in clauses (a) and (b) are equal, then the payment shall be made under clause (b). If the amount in clause ii(b) is owed, that amount shall constitute the (reduced) Additional Annual Contribution Per Property owed for the second year of the subject property's Tax Protection Period, and clauses iii and iv below shall not apply. Then, in the third year and in each subsequent year of that property's Tax Protection Period, such reduced Annual Contribution Per Property shall be increased by three percent (3%) over the amount for the previous fiscal tax year.

iii. Year Three of Phase In Period: During the third year of the property's Tax Protection Period ("Year Three of the Phase In Period"), MIT may deduct a portion of the applicable Limited Deduction Allowance from and reduce the relevant Additional Annual Contribution Per Property, so long as MIT shall pay the City the greater of (a) 33.33% of the relevant Additional Annual Contribution Per Property for the subject property (i.e., 33% of the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion), or (b) the amount equal to such Additional Annual Contribution Per Property minus the property's Limited Deduction Allowance. If the amounts in clauses (a) and (b) are equal,

then the payment shall be made under clause (b). If the amount in clause iii(b) is owed, that amount shall constitute the (reduced) Additional Annual Contribution Per Property for the third year of the subject property's Tax Protection Period, and clause iv below shall not apply. Then, in the fourth year and in each subsequent year of that property's Tax Protection Period, such reduced Annual Contribution Per Property shall be increased by three percent (3%) over the amount for the previous fiscal tax year.

iv. Year Four of Phase In Period: During the fourth year of the property's Tax Protection Period ("Year Four of the Phase In Period"), MIT may deduct the full applicable Limited Deduction Allowance from and thereby fully offset and eliminate or reduce the relevant Additional Annual Contribution Per Property for the subject property (i.e., the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion). If such Additional Annual Contribution Per Property is fully offset and eliminated by such deduction, no further payments shall be owed for that property under this Agreement for so long as the property is used for Exempt Purposes.

If, however, such Additional Annual Contribution Per Property is not fully offset and eliminated by the relevant Limited Deduction Allowance, but is only reduced by such Limited Deduction Allowance, then in the fourth year of the property's Tax Protection Period, MIT shall owe the portion of the Additional Annual Contribution Per Property for the property (i.e., the portion of the amount of regular real property taxes owed on the property in the fiscal tax year of its Conversion) that is not offset by the property's Limited Deduction Allowance, and this reduced amount shall constitute the reduced Additional Annual Contribution Per Property for the fourth year of the property's Tax Protection Period. Thereafter, in year five and in each subsequent year of the Tax Protection Period for that property, such reduced Additional Annual Contribution Per Property shall be increased by three percent (3%) over the amount for the previous fiscal tax year.

v. Limitation on Per Year Effect on Tax Base: The portion of the total of all Available Allowance Percentages that are actually used in connection with the new Conversion and tax exemption of one or more properties in a particular fiscal tax year during the Term (i.e., as provided in calculation 4 in Exhibit C, considering only such property or properties as are newly subject to Conversion and then first become tax exempt in that fiscal tax year, and without considering the effect of the Phase In Period), shall be limited to no more than 0.5% of the City's Total Tax Levy in the relevant fiscal tax year, as MIT is providing predictability and protection to the City covering its existing tax revenue base.

If, due to this limitation and without considering the effect of the Phase In Period MIT, in a particular fiscal tax year, does not use the full amount of the total of all Available Allowance Percentages that would otherwise actually be used by (and the total Limited Deduction Allowance(s) that would otherwise be applicable to) one or more properties that are subject to Conversion and then become exempt from taxation in that fiscal tax year, then MIT may carry forward and apply, in any one or more subsequent fiscal tax year(s) ("carry forward fiscal tax year(s)"), the unused portion of such Available Allowance Percentages that would otherwise have been actually used and Limited Deduction Allowance(s) that would otherwise have applied to offset and eliminate or reduce the relevant Additional Annual Contributions Per Property. In such event, the portion of the Available Allowance Percentage(s) that is carried forward and

actually used by any property or properties (as provided in calculation 4 in Exhibit C and without considering the effect of the Phase In Period) in any carry forward fiscal tax year, shall be considered when applying the 0.5% limitation under this clause v in that carry forward fiscal tax year. This carry-forward is intended to enable MIT to fully use the applicable Available Allowance Percentages and Limited Deduction Allowance(s) and to also satisfy the limitation in this clause v and shall be interpreted to give effect to this intent.

vi. Flexibility to Swap Taxable and Tax Exempt Properties with No Net Adverse Effect on Tax Base: Inasmuch as MIT is providing predictability to the City and protection to the City's existing tax revenue base as of the Effective Date, the City is giving MIT the flexibility to swap (i.e., offset the tax effects of) its properties that are taxable and its properties that are not taxable without adversely affecting the City's tax base, as provided in this clause. If at any time or from time to time during the Term or any Tax Protection Period under this Agreement, MIT converts the use of any property it owns or acquires from an Exempt Purpose to a taxable use, which the parties agree will increase the City's tax base, then, in any fiscal tax year during the Term or any Tax Protection Period when MIT elects to apply the offset (provided that such converted property is then owned by MIT and taxable), at MIT's option (1) any Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied in the first year of the relevant property's Tax Protection Period (without considering the effect of the Phase In Period) shall be fully offset and eliminated or reduced by the amount of the taxes owed on the converted property in the fiscal tax year of the offset, and/or (2) the otherwise Available Allowance Percentage for the next property or properties that are subject to Conversion and tax exemption during the Term (as provided in Exhibit C); and/or any Available Allowance Percentage that was used to determine a then existing Limited Deduction Allowance that does not fully offset and eliminate a then existing Additional Annual Contribution Per Property, shall be increased by a percentage equal to the quotient of (a) the amount of the tax owed on the converted property for the fiscal tax year of the offset, divided by (b) the City's Total Tax Levy for that fiscal tax year (and the relevant Limited Deduction Allowance shall be increased and the related Additional Annual Contribution Per Property shall be fully offset and eliminated or reduced accordingly, without application of clauses i to v).

Under this clause vi, if (1) any such Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied is fully offset and eliminated, and/or (2) any Limited Deduction Allowance is increased and, in the fiscal tax year of said increase, the related Additional Annual Contribution Per Property is fully offset and eliminated by the increased Limited Deduction Allowance, then notwithstanding any other provision of this Agreement, MIT shall not owe any (or any further) taxes, Additional Annual Contribution Per Property, or other payments on the relevant property under this Agreement for so long as that property is used for Exempt Purposes. The provisions of this clause vi may be applied by MIT so that one or more properties' adverse effects on the City's tax base (whenever such effects occur) are offset by one or more other properties' positive effects (whenever such effects occur), provided that there is no net adverse effect on the City's Total Tax Levy in the fiscal tax year when MIT applies the offset; and this clause vi shall be interpreted accordingly. Consequently, (a) more than one Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied may be offset and eliminated or reduced, and/or (b) the Available Allowance Percentage may be increased more than one time during a fiscal tax year as a result of MIT's conversion of more

than one property from an Exempt Purpose to a taxable use, and more than one Limited Deduction Allowance may be increased (and more than one related Additional Annual Contribution Per Property may be fully offset and eliminated or reduced) accordingly, and/or (c) an increase in an Available Allowance Percentage may be used to increase more than one property's Limited Deduction Allowance and/or to offset and eliminate or reduce more than one property's Additional Annual Contribution Per Property if such increase in the Available Allowance Percentage is not fully used by one property.

vii. Effect of Advance Notice of Conversion: It is in the City's interest to know about, and be able to plan for, a Conversion; and consequently, the City would like to create an incentive to receive advance notice of a planned Conversion as soon as there is a real likelihood that it will occur. Consequently, if MIT, at its option, elects to deliver written notice to the City in advance of a planned Conversion, specifically identifying property that is likely to be subject to Conversion ("Conversion Notice"), then the real property taxes paid on the subject property during the fiscal tax year in which the City receives the Conversion Notice shall be deemed to fulfill MIT's obligations during Year One of the Phase-In Period under clause i above to pay the Additional Annual Contribution Per Property without deduction of the applicable Limited Deduction Allowance. Upon the Conversion of any property about which MIT has provided a Conversion Notice, then, notwithstanding any other provision of this Agreement, (a) in the first fiscal tax year in which the property is exempt from taxation during the Term, the provisions of clause ii above for Year Two of the Phase In Period shall apply to the payment of the Additional Annual Contribution Per Property with limited deduction of the applicable Limited Deduction Allowance; (b) in the second fiscal tax year in which the property is exempt from taxation the provisions of clause iii above for Year Three of the Phase In Period shall apply to such payment and limited deduction, and (c) in the third fiscal tax year in which the property is exempt from taxation the provisions of clause iv above for Year Four of the Phase In Period shall apply. Notwithstanding the foregoing, if filing for tax exemption is not made for a property that is the subject of a Conversion Notice during or before the fifth full fiscal tax year after the relevant Conversion Notice, the Phase-In Period provisions of clauses (i) through (iv) above shall apply as if no Conversion Notice had been given.

viii. Effect of MIT Providing Student Housing or Public Access: The City seeks to encourage MIT to build student housing to relieve any burden on the City's affordable housing stock, and to make open and recreational space accessible to the public. Consequently, if, at any time or from time to time during any Tax Protection Period under this Agreement, MIT constructs or otherwise creates any student housing on any of MIT's taxable property, or makes any new or existing passive open space or recreational space on any of MIT's taxable property accessible to the public (i.e., the space is not physically restricted or restricted by any regulation of MIT, except for any reasonable regulations or restrictions in effect from time to time related to public safety, non-liability of MIT, the protection of such space, and/or the reasonable use of the space by both MIT and the public), then, in each such event, the portion of MIT's taxable property on which any such housing or open or recreational space is located shall not be taxable by the City (as determined in the next sentence), nor shall such portion's relief from taxes reduce or in any way affect the Available Allowance Percentage or related Limited Deduction Allowance that is available under this Agreement (and clauses i through v shall not apply to such relief and no Additional Annual Contribution Per Property shall apply as a consequence of such

relief, even if a formal tax exemption is provided), so long as such housing or open or recreational space exists thereon. The tax relief attributable to such portion of MIT's otherwise taxable property under this clause, shall be equitably determined by agreement of the City Manager and MIT, by allocating the property's taxes on the basis of square footage occupied by and supporting such housing or open or recreational space as compared with the remaining square footage of the property; and if they cannot agree, shall be subject to the dispute resolution provisions of this Agreement in Exhibit D, attached to and incorporated in this Agreement. Nothing in this clause shall have a bearing on the interpretation by either party of the law that would apply to the tax status of such housing or space in the absence of this Agreement.

ix Effect of Excess Payments: If at any time or from time to time during the Term or any Tax Protection Period, MIT believes, as a condition to site plan approval or other land-use, zoning, environmental or similar permits or agreements from the City for development, renovations, utilities or other projects, MIT is being required to pay to the City or otherwise to contribute any amount (whether in funding or in-kind) beyond amounts generally required of other project proponents in the City to mitigate the impact of development, renovations, utilities or other projects ("Excess Amounts"), the matter shall be submitted by MIT to the City Manager, and MIT and the City Manager shall cooperate reasonably to determine and agree on whether or not MIT's belief that it is being required to pay Excess Amounts is correct. If they agree that MIT is being required to pay Excess Amounts, then, in any fiscal tax year during the Term or any Tax Protection Period when MIT elects to apply the offset (provided that such fiscal tax year is the one during which MIT is first required to pay the Excess Amounts or occurs thereafter), at MIT's option (1) any Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied in the first year of the relevant property's Tax Protection Period (without considering the effect of the Phase In Period) shall be fully offset and eliminated or reduced by the amount of the taxes owed on the converted property in the fiscal tax year of the offset, and/or (2) the otherwise Available Allowance Percentage for the next property subject to Conversion and tax exemption during the Term (as provided in Exhibit C), and/or any Available Allowance Percentage that was used to determine any then existing Limited Deduction Allowance that does not fully offset and eliminate any then existing Additional Annual Contribution Per Property, shall be increased by a percentage equal to the quotient of (a) the Excess Amounts divided by (b) the City's Total Tax Levy for the fiscal tax year of the offset (and the relevant Limited Deduction Allowance shall be increased and the related Additional Annual Contribution Per Property shall be fully offset and eliminated or reduced accordingly, without application of clauses i to v). If despite reasonable efforts, MIT and the City Manager are not able to agree, then upon written notice by MIT or the City under Section 6(a), the matter shall be resolved in accordance with the dispute resolution procedures set forth in Exhibit D.

Under this clause ix, if (1) any such Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied is fully offset and eliminated, and/or (2) any Limited Deduction Allowance is increased and, in the fiscal tax year of said increase, the related Additional Annual Contribution Per Property is fully offset and eliminated by the increased Limited Deduction Allowance, then notwithstanding any other provision of this Agreement, MIT shall not owe any (or any further) taxes, Additional Annual Contribution Per Property, or other payments on that property under this Agreement for so long as the property is used for Exempt Purposes. The provisions of this clause ix may be applied by MIT so that (a) more than one

Additional Annual Contribution Per Property to which no Limited Deduction Allowance applied may be offset and eliminated or reduced, and/or (b) the Available Allowance Percentage may be increased more than one time in a fiscal tax year as a result of MIT paying Excess Amounts under more than one permit, approval, or other condition, and more than one Limited Deduction Allowance may be increased (and more than one related Additional Annual Contribution Per Property may be fully offset and eliminated or reduced) accordingly, and/or (c) an increase in an Available Allowance Percentage may be used to increase more than one property's Limited Deduction Allowance and/or to offset and eliminate or reduce more than one property's Additional Annual Contribution Per Property if such increase in the Available Allowance Percentage is not fully used by one property.

4. **Termination of Agreement.** The City shall have the right to terminate this Agreement by, and effective upon, written notice of such termination delivered to MIT in accordance with Section 6(a), in the event that, at any time after the Effective Date: (a) MIT fails to make any payment owed under this Agreement when such payment is due, and such failure continues for a period of 90 days after the City gives MIT written notice of such failure in accordance with Section 6(a) specifying the amount due, and such right of termination shall apply at any time after said 90-day period until such payment is made, unless MIT disputes that the amount is owed and submits the issue to dispute resolution under Exhibit D; or (b) the federal or state laws, regulations, ordinances and/or other government requirements applicable to the payment by MIT of taxes or similar assessments on property it uses for an Exempt Purpose, and/or any judicial or administrative interpretation of any of them (other than by the City), change in any manner, the direct or indirect effect of which (as agreed by MIT and the City or as determined by dispute resolution under Exhibit D) is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to the City; or (c) the "Financial Rating" of the City, which is AAA as of the Effective Date, falls below "Investment Grade".

MIT and the City have worked cooperatively over the years and believe they will continue to have a good working relationship. The City wants a contract for strategic protection of its existing tax base, notwithstanding that MIT has voluntarily paid amounts in lieu of taxes without a contract and MIT has agreed to enter into this Agreement providing for strategic tax protection and a base payment. Similarly, MIT wants protection of the assumptions it has made in entering such contract, and the City has agreed to provide such protection in this Agreement. This Agreement shall not in any manner whatsoever restrict the City's exercise of its police power; and merely sets forth the circumstances in which the foundation supporting MIT's decision to enter into this Agreement would no longer exist, justifying MIT's decision to terminate this Agreement. MIT shall have the right to terminate this Agreement, including any of MIT's obligations extending beyond the Term, by, and effective upon, written notice of termination delivered to the City in accordance with Section 6(a), in the event that, at any time after the Effective Date: (a) it is determined through the dispute resolution procedures under Exhibit D, that the City has either exceeded its authority under the so-called "Dover Amendment" (G.L.c. 40A, §3) or otherwise, in any way adversely affecting MIT and/or its property, or has acted toward MIT and/or any of its property in a manner contrary to applicable laws, regulations ordinances, rules, codes, and/or requirements; or (b) the City has acted in any manner or through any means, the intended or unintended result of which, as determined by

agreement of MIT and the City or, if they do not agree, as determined through the dispute resolution process under Exhibit D, is a material reduction in the allowable Gross Floor Area MIT can use, build or renovate for an Exempt Purpose, whether through a reduction in the height, an increase in the setbacks and yard requirements, the reduction of Floor Area Ratio, or the change in any other requirements applicable to any property devoted to Exempt Purpose by MIT, unless the City is required by state or federal law (but not including any state law resulting from the City's Home Rule Petition) to take such action and such action is applicable to all or a majority of the commercial, industrial, and institutional properties in the City, and not only, or predominantly, to MIT's or MIT's and other educational institutions' property; or (c) the laws, regulations, ordinances and/or other governmental requirements applicable to the payment by MIT of taxes or similar assessments on property it uses for an Exempt Purpose, and/or any judicial or administrative interpretation of any of them, change in any manner, and/or the City exercises its police power (which this Agreement does not constrain) in any manner, the direct or indirect effect of any of which (as agreed by MIT and the City or as determined by dispute resolution under Exhibit D) is to change the terms, conditions, and/or benefits of this Agreement in any way that is materially adverse to MIT; or (d) the "Financial Rating" of MIT, which is AAA as of the Effective Date, falls below "Investment Grade."

5. **Representations as to Authority.** *The City's Authority.* The City represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite municipal power and authority under the City's Charter and under the laws of Massachusetts to execute, deliver, perform and be bound by this Agreement. The City represents that (i) the individuals executing and delivering this Agreement on the City's behalf, are the incumbents of the offices stated under their names, and such offices have been duly authorized to do so by all necessary municipal action taken by and on the part of the City, (ii) the Agreement has been duly and validly authorized, executed and delivered by the City, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which the City will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of the City, enforceable against the City in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against the City, the City agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

MIT's Authority. MIT represents that it is duly organized, validly existing and in good standing under the laws of Massachusetts and has all requisite corporate power and authority to execute, deliver, perform and be bound by this Agreement. MIT represents that (i) the individual executing and delivering this Agreement on MIT's behalf, is the incumbent of the office stated under his name, and such offices has been authorized to do so by all necessary corporate action taken by and on the part of MIT, (ii) the Agreement has been duly and validly authorized, executed and delivered by MIT, and (iii) subject to any future decision of a court or arbitrator of competent jurisdiction (which MIT will not instigate and has no reason to believe will be forthcoming), the Agreement constitutes the valid and binding obligation of MIT, enforceable against MIT in accordance with its provisions. If a third party challenges the validity and enforceability of this Agreement against MIT, MIT agrees to use best reasonable efforts to defend the validity and enforceability of this Agreement.

6. Miscellaneous Provisions.

(a) Notices. All notices, consents, directions, approvals, waivers, submissions, requests and other communications under this Agreement shall be effective only if made in writing with all delivery charges prepaid by a method set forth below, shall be effective at the times specified below, and shall be addressed:

(1) to MIT at:
Massachusetts Institute of Technology
Office of the Treasurer
238 Main Street
Cambridge, MA. 02139
Attn: Managing Director, Real Estate

With a copy to:
Massachusetts Institute of Technology
Senior Counsel's Office
Room 7-206
77 Massachusetts Avenue
Cambridge, MA. 02139
Attn: Senior Counsel

And

(2) to the City at:
Cambridge City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA. 02139

With a copy to:

Cambridge City Solicitor
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA. 02139

And to

City of Cambridge Board of Tax Assessors
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139
Attention: Chair

— By commercially recognized overnight or expedited commercial courier service, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the delivery receipt;

— By hand delivery, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the messenger's receipt; or

— By US certified or registered mail, return receipt requested, effective upon delivery or the refusal of delivery by or on behalf of the addressee as evidenced by the return receipt.

Any party may change or add to the addressees and/or addresses for notice by giving notice of such change or addition to the other party in accordance with this paragraph.

(b) Severability/Captions. The provisions of this Agreement are severable, and, if any provision, or any portion thereof, is deemed by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remaining provisions, or remaining portions thereof, shall remain valid and enforceable to the fullest extent permitted by law, provided that (as determined by agreement of the parties or by a court or arbitrator of competent jurisdiction) such continuing validity and enforceability results in neither the loss of any material benefit to, nor the increase of any material burden on, either party or both of them, as such benefits and burdens are originally provided in this Agreement. If this Agreement is terminated or rendered of no effect due to the invalidity, illegality, or unenforceability of any of its provisions, those MIT obligations that otherwise would survive the Term shall end. The captions used in this Agreement are for convenience only and shall not be deemed to have any relevance to the meaning of any of the provisions.

(c) Waivers/Time of Essence. The provisions and any breach of this Agreement shall not be waived, except expressly in writing signed by the waiving party. A waiver on one occasion or of one provision or breach shall not constitute a waiver on another occasion or of another provision or breach. Time is of the essence of this Agreement.

(d) Amendments. This Agreement shall not be amended unless such amendment shall be expressly agreed in writing executed by duly authorized representatives of both parties.

(e) Whole Agreement/Survival. This Agreement supersedes any previous negotiations or agreements between the parties to this Agreement, whether oral or in writing, in relation to the matters dealt with herein and represents the entire agreement between the parties in relation thereto. The provisions of this Agreement that, by their specific terms, apply to any Tax Protection Period or otherwise apply after the Term shall, except as provided in Sections 4 and 6(b), survive the Term for so long as applicable; and all of the provisions of this Section 6 shall also survive the Term in relation to any of this Agreement's other surviving provisions.

(f) Real Property. All references in this Agreement to real property or property owned by or of MIT shall be deemed to mean fee ownership of real property or the ownership of any other real property interest including fixtures and/or improvements to property,

and any use and/or occupancy of any real property, including leases, which would affect the determination of whether the property is exempt or taxable by the City.

(g) Reservations. The City and MIT agree that this Agreement provides the City with protection of its tax base; but nothing in this Agreement in any way restricts the City's complete discretion in the exercise of its police power or imposes any restrictions on MIT's complete discretion to determine which properties it currently owns or hereafter acquires shall be reserved for, converted to, or acquired for, Exempt Purposes and/or taxable purposes, taking into account MIT's academic mission, economics, logistics, programs, relevant site constraints of development, and any and all other considerations it desires. The City and MIT each reserves all of its respective positions, rights and remedies at law and equity in connection with real estate taxes and exemptions in the event of the termination, expiration or inapplicability of this Agreement. MIT is entering into this Agreement voluntarily; and nothing in this Agreement or MIT's performance of its covenants hereunder shall be construed for any purposes whatsoever to constitute an acknowledgement by MIT of any regulatory, statutory or contractual obligation to make the Annual Contribution or any other payment to the City on account of real property owned by MIT for Exempt Purposes, beyond the explicit contractual commitments voluntarily made by MIT under, and subject to all of the terms and conditions of, this Agreement.

(h) Counterparts. This Agreement may be executed by the parties hereto in multiple separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument of which there may be multiple originals.

(i) Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of The Commonwealth of Massachusetts for all purposes, without regard to any such laws governing choice of law.

IN WITNESS whereof the parties have executed this Agreement under seal as of the Effective Date.

Massachusetts Institute of Technology

By: Charles M. Vest
Charles M. Vest, President
Hereunto duly authorized
Date: Dec. 3, 2004

City of Cambridge

By: Robert W. Healy
Robert W. Healy, City Manager
Hereunto duly authorized
Date: 12/3/04

By: Faith D. McDonald
Faith D. McDonald, Director
Assessments
Hereunto duly authorized
Date: December 3, 2004

EXHIBIT A

DEFINITIONS

The following capitalized terms in this Agreement shall have the meanings ascribed to them below:

(a) “City’s Total Tax Levy” means the total amount of real property taxes levied by and owed to the City for all real property in the City that is not exempt from real property taxes under applicable law in the relevant fiscal tax year, without regard to any voluntary in lieu of taxes or other payments made to the City for real property that is exempt from real property taxes under applicable law.

(b) “Exempt Purposes” means those purposes of real property use that render such property eligible for exemption from real property taxation pursuant to Massachusetts General Laws chapter 59, section 5, clause third, as in effect as of the date of this Agreement.

(c) “Financial Rating” shall mean MIT’s or the City’s, as the case may be, long term issuer credit as rated by Standard & Poor’s, or its senior unsecured issuer credit as rated by Moody’s, or such equivalent rating of its long term or senior unsecured issuer credit by any other nationally recognized statistical rating organization, including without limitation, Fitch. “Investment Grade” shall mean BBB+ as rated by Standard & Poor’s or Baa+ as rated by Moody’s, or such other equivalent rating given by any other nationally recognized statistical rating organization that rates the long term or senior unsecured issuer credit rating of MIT or the City, as the case may be.

(d) “Moody’s” means Moody’s Investors Service, Inc., and its successors.

(e) “Standard & Poor’s” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors.

(f) “Fitch” means Fitch, Inc., Fitch Ratings Ltd, and their successors.

(g) “Term” means the Initial Term, and any and all Extension Terms that have come into effect from time to time, as follows: The “Initial Term” of this Agreement shall commence on the Effective Date and shall expire on June 30, 2014. MIT shall have the right and option of extending the Term of this Agreement for three (3) additional successive periods of ten (10) years each (each, an “Extension Term”). MIT shall be deemed to have automatically exercised its right to extend the Term of this Agreement for, and upon the commencement of, each Extension Term, unless MIT provides the City with written notice in accordance with Section 6(a), by the December 30 prior to the expiration of the then current Term, that MIT does not exercise its right to extend the Term, upon which notice, the Term shall end upon the expiration of the then-current Term. All Extension Terms exercised shall commence immediately upon expiration of the preceding Term.

EXHIBIT B

ANNUAL CONTRIBUTION REPORT FOR THE FISCAL TAX YEAR 20XX

Capitalized Terms used in this Exhibit B are defined as they are defined in the Agreement dated as of July 1, 2004 between City of Cambridge ("City") and Massachusetts Institute of Technology ("MIT") in which this Exhibit is incorporated ("Agreement"). The following is MIT's report on its Annual Contribution for fiscal tax year 20__.

<p>A. During the Term: Base Contribution for fiscal tax Year 20__ (after the first fiscal tax year during the Term, reflecting a 2.5 increase over the prior fiscal tax year's Base Contribution as more particularly provided in Sections 1 and 2 of the Agreement)</p>	<p>\$</p>
<p>B. During any Tax Protection Period(s): Additional Annual Contribution for fiscal tax year 20__ (as more particularly provided in Sections 1 and 3 and Exhibit C of the Agreement)</p>	<p>\$</p>
<p>C. Total Annual Contribution for fiscal tax year 20__ (during the Term: C=A + B above, and during any Tax Protection Period(s) after the Term, C=B, as more particularly provided in Section 1 of the Agreement)</p>	<p>\$</p>
<p>D. Available Allowance Percentage as of July 1, 20__ (first day of the fiscal tax year of this report)(as more particularly provided in Section 3 and Exhibit C of the Agreement)</p>	<p>%</p>
<p>E. Available Allowance Percentage Used (total for all properties) in fiscal tax year 20__ (the fiscal tax year of this report) (sum for all properties: taxes owed on each property that became exempt from taxes during the fiscal tax year of this report, 20__ [i.e., taxes owed on the property in the year of its Conversion] <i>divided by</i> City's Total Tax Levy in the year of Conversion—subject to a maximum of D)(as more particularly provided in Section 3 and Exhibit C of the Agreement)</p>	<p>%</p>
<p>F. Available Allowance Percentage as of July 1, 20__ (first day of the next fiscal tax year following the fiscal tax year of this report) (D minus E above) (as more particularly provided in Section 3 and Exhibit C of the Agreement)</p>	<p>%</p>

Signature of Authorized Officer of MIT _____
 Print Name _____
 Title _____

EXHIBIT C

Capitalized terms used and not defined in this Exhibit shall have the meanings given them in the Agreement.

The initial Available Allowance Percentage, as of the Effective Date, is 2.5% (.025). The Available Allowance Percentage, at any time and from time to time, under this Agreement, and, consequently, the Limited Deduction Allowance that is applicable during the relevant Tax Protection Period to a particular property that is subject to Conversion and becomes exempt from taxation during the Term, is determined as follows:

A. First Property - Property A

1. The Available Allowance Percentage for the first property subject to Conversion that becomes exempt from taxation during the Term (Property A) = .025
2. The Limited Deduction Allowance applicable to Property A = .025 x City's Total Tax Levy for the fiscal tax year of Property A's Conversion.
3. The Additional Annual Contribution Per Property applicable to Property A = The taxes owed on Property A for the fiscal tax year of its Conversion. However, Property A's Additional Annual Contribution Per Property will be reduced by the amount of Property A's Limited Deduction Allowance; and, consequently, after the Phase In Period established in Section 3 of the Agreement, there will be no, or a reduced, Additional Annual Contribution Per Property owed on Property A, and the Annual Contribution Report in Exhibit B shall not include Property A, as long as it is used for an Exempt Purpose.
4. The Available Allowance Percentage actually used by Property A = the taxes owed on Property A for the fiscal tax year of its Conversion ÷ City's Total Tax Levy for the fiscal tax year of Property A's Conversion = X (or, if X > .025, = .025)
5. The remaining Available Allowance Percentage after deducting the portion used by Property A = .025 - X = Y (or, if X > .025, = 0)

B. Next Property - Property B

1. The Available Allowance Percentage for the next property (Property B) subject to Conversion that becomes exempt from taxation during the Term after Property A = Y (or, if X > .025, = 0)
2. The Limited Deduction Allowance applicable to Property B = Y x City's Total Tax Levy for the fiscal tax year of Property B's Conversion.
3. The Additional Annual Contribution Per Property applicable to Property B = The taxes owed on Property B for the fiscal tax year of its Conversion. However, Property B's Additional Annual Contribution Per Property will be reduced by the amount of Property B's Limited Deduction Allowance; and, consequently, after the Phase In Period established in Section 3 of the Agreement, there will be no, or a reduced, Additional Annual Contribution Per

Property owed on Property B, and the Annual Contribution Report in Exhibit B shall not include Property B, as long as it is used for an Exempt Purpose.

4. The Available Allowance Percentage actually used by Property B = the taxes owed on Property B for the fiscal tax year of its Conversion \div City's Total Tax Levy for the fiscal tax year of Property B's Conversion = Z (or, if $Z > Y$, =Y).

5. The remaining Available Allowance Percentage after deducting the portion used by Property B = $Y - Z = XX$ (or, if $Z > Y$, = 0)

C. Next Property - Property C

1. The Available Allowance Percentage applicable to the next property (Property C) subject to Conversion that becomes exempt from taxation during the Term after Property B = XX (or, if $Z > Y$, = 0)

2. The Limited Deduction Allowance applicable to Property C = $XX \times$ City's Total Tax Levy for the fiscal tax year of Property C's Conversion.

3. The Additional Annual Contribution Per Property applicable to Property C = The taxes owed on Property C in the fiscal tax year of its Conversion. However, Property C's Additional Annual Contribution Per Property will be reduced by the amount of Property C's Limited Deduction Allowance; and, consequently, after the Phase In Period established in Section 3 of the Agreement, there will be no, or a reduced, Additional Annual Contribution Per Property owed on Property C, and the Annual Contribution Report in Exhibit B shall not include Property C, as long as it is used for an Exempt Purpose.

4. The Available Allowance Percentage actually used by Property C = the taxes owed on Property C for the fiscal tax year of its Conversion \div City's Total Tax Levy for the fiscal tax year of Property C's Conversion = YY.(or, if $YY > XX$, =XX)

5. The remaining Available Allowance Percentage after deducting the portion used by Property C = $XX - YY = ZZ$ (or, if $YY > XX$, =0).

This process for determining the Available Allowance Percentage, and, consequently, the applicable Limited Deduction Allowance, shall continue to apply to each subsequent property that is subject to Conversion and becomes exempt from taxation during the Term. Under this process, ZZ (or 0 if $YY > XX$) is the Available Allowance Percentage that will apply to the next property (Property D) that is subject to Conversion after Property C.

The Available Allowance Percentage and Limited Deduction Allowance are subject to the Adjustments under Section 3 of the Agreement.

EXHIBIT D

DISPUTE RESOLUTION

Either party, in connection with any dispute between them under, or concerning interpretation of, this Agreement, may initiate final and binding arbitration utilizing the American Arbitration Association Commercial Dispute Resolution Procedures then in effect, or any successor rules. The arbitration shall be heard by a panel of three (3) arbitrators, (who need not be certified by the American Arbitration Association), and shall be decided by a majority of them.

Such arbitrators must be members in good standing of the Massachusetts Bar for a minimum of fifteen (15) years and be generally recognized as having expertise (a) in Massachusetts zoning, permitting and land use law and regulation for disputes under Section 3 clause viii and/or clause ix of this Agreement, or (b) in Massachusetts real estate taxation and exemptions for disputes under other provisions of this Agreement. The arbitrators shall be selected in the following manner: each party shall, within fifteen (15) days after delivery of notice from a party requesting arbitration, notify the other party of its selection of one person meeting the foregoing qualifications to serve as an arbitrator, and the two persons so selected by the parties shall together select a third person meeting such qualifications to serve as the third arbitrator. If the two persons selected by the City and MIT cannot agree on a third arbitrator within 30 days after notification of the selection of the later of them to be selected, then either the City or MIT may request a third arbitrator be selected by the chief judge of the Massachusetts Superior Court, and such selection shall be binding on the parties. The arbitrators selected shall then establish the practical rules and schedule for the arbitration. Each party shall pay for the services and expenses of the arbitrator it selects and one-half of the services and expenses of the third arbitrator selected.

Unless arbitration has been initiated, either party may instead elect in the alternative to initiate litigation in the state courts of Massachusetts to resolve a dispute between them under or concerning interpretation of this Agreement; provided however, notwithstanding the foregoing, that unless and until any such dispute being litigated has been tried and submitted for decision at the close of all evidence at trial, there shall be no limitation on the ability of either party to invoke final and binding arbitration in the manner specified above. Upon either party timely submitting a dispute being litigated to arbitration, the parties shall execute and file with the court an agreement for dismissal with prejudice. Upon its submittal for decision after the close of evidence at trial, a dispute being litigated shall be decided in litigation (with any rights of appeal preserved) and neither party shall have the right to invoke arbitration.

The parties also agree that, before either shall invoke litigation or arbitration, they will engage in good faith in voluntary mediation before a neutral of their joint selection (who shall be an experienced mediator who also satisfies the subject matter, professional and length of expertise qualifications that are applicable to arbitrators in this Exhibit D) in order to attempt to resolve in that fashion any dispute arising between them under, or concerning interpretation of, this Agreement. The parties shall share equally in the fees of the mediator.

