Annual Investment Projects Report

Pursuant to New York City Administrative Code §22-823

FY 2025, Volume III
January 30, 2026

One Liberty Plaza
New York, NY 10006
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Land Sale List

No.	Project Name	Closing Date	Address	City	State	Postal Code	Total Purchase Price
1	Seaview Senior Living Corporation	11/11/2009	Brielle Avenue	Staten Island	NY	10314	$ 1.00
2	Homeport I LLC	11/1/2011	455 Front Street	Staten Island	NY	10304	$ 7,410,000.00
3	210 Joralemon	4/30/2012	210 Joralemon Street	Brooklyn	NY	11201	$ 10,000,000.00
4	Broadway Plaza	6/8/2012	5534 Broadway	Bronx	NY	10463	$ 7,500,000.00
5	Taystee Create LLC	6/13/2012	461 West 125th Street	New York	NY	10027	$ 3,425,000.00
6	Triangle Plaza Hub LLC (Hub at 149th Street)	11/30/2012	East 149th Street	Bronx	NY	10455	$ 2,060,000.00
7	Toys "R" Us - Delaware, Inc.	2/21/2013	2875 Flatbush Avenue	Brooklyn	NY	11234	$ 13,000,000.00
8	CJSA Realty LLC (Zerega Havermeyer)	6/11/2013	1200 Zerega Avenue	Bronx	NY	10473	$ 1,200,000.00
9	Goldex Limited aka 307 Rutledge	6/13/2013	307 Rutledge Street	Brooklyn	NY	11211	$ 1,030,000.00
10	20 Lafayette LLC	7/1/2013	300 Ashland Place (113 Flatbush Ave)	Brooklyn	NY	11217	$ 16,500,000.00
11	Civic Center Community Group Broadway LLC	12/11/2013	346 Broadway	New York	NY	10013	$ 125,100,000.00
12	Bricktown Pass, LLC	12/20/2013	2995 Veterans Road West	Staten Island	NY	10307	$ 7,500,000.00
13	Flushing Commons, LLC	12/30/2013	37-10 37th Avenue	Queens	NY	11101	$ 20,000,000.00
14	707 East 211th Street LLC	7/23/2014	707 East 211th Street	Bronx	NY	10467	$ 475,000.00
15	Yeshivah Rambam	10/8/2014	3340 Kings Highway	Brooklyn	NY	11234	$ 1,200,000.00
16	New York Proton Management LLC (Proton Center)	7/15/2015	225 East 126th Street	New York	NY	10035	$ 14,000,000.00
17	Seward Park	11/25/2015	236 Broome Street	New York	NY	10002	$ 15,800,000.00
18	Gabrielli Brookville, LLC	1/14/2016	154-168 Brookville Boulevard	Queens	NY	11422	$ 2,254,244.00
19	MTA East Houston Street	5/20/2016	19 East Houston Street	New York	NY	10012	$ 25,825,000.00
20	Gotham Center	6/30/2016	28-10 Queens Plaza South	Queens	NY	11101	$ 2,000,000.00
21	Joseph P. Addabbo Family Health Center, Inc., The	8/3/2016	62-00 Beach Channel Drive	Queens	NY	11692	$ 479,700.00
22	S & L Aerospace Metals, LLC.	2/1/2017	120-12 28th Avenue	Queens	NY	11354	$ 3,200,000.00
23	Cadman Associates LLC	6/15/2017	280 Cadman Plaza West	Brooklyn	NY	11201	$ 52,000,000.00
24	JEMB Albee Square, LLC	7/5/2017	418 Albee Square	Brooklyn	NY	11201	$ 456,177.00
25	Teleport Site A	7/27/2017	Teleport Drive	Staten Island	NY	10311	$ 4,200,000.00
26	Seward Park Site 8	11/1/2017	140 Essex Street	New York	NY	10002	$ 7,000,000.00
27	BRP Caton Flats LLC	12/26/2018	794 Flatbush Avenue	Brooklyn	NY	11226	$ 10.00
28	125 MEC Parcel B-West	12/31/2018	East 125th Street	New York	NY	10035	$ 9,251,497.00
29	Bartlett Dairy, Inc.	7/16/2020	16102 Rockaway Boulevard	Queens	NY	11434	$ 4,000,000.00
							$ 356,866,629.00

Land Sales Details

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
1	11/11/2015	30 years after Substantial Completion	commencing on the date hereof and concluding thirty (30) years from the date of Substantial Completion of the construction of the Phase I and Phase II, as applicable ("Performance Term"): (i) The Phase I Premises or Phase II Premises, as applicable, shall be used as follows: (A) the Phase I Premises shall be used as a senior citizen housing complex comprised of: (x) an Assisted Living Residence Facility used and operated as an as an assisted living residence licensed under City of New York (to the extent such City license exists) and State of New York laws, rules and regulations and any successor laws, rules and regulations thereto, which assisted living residence shall include, but not be limited to, housing, on-site monitoring and personal care services for residents provided by one or more operating entities licensed under City and New York laws, rules and regulations and any successor laws, rules and regulations ("Assisted Living Residence"), containing a minimum of 120 ALUs for seniors age 62 years or older, a minimum of ten percent (10%) of which shalt remain affordable to households whose annual income (as hereinafter defined) is less than 140% of the area median income (as hereinafter defined) (the definition in Paragraph II(a)(i) and this Paragraph II(b)(i)(x) are collectively the "Assisted Living Residence Facility"), (y) the Staff Residence to e used for purposes ancillary and incidental to the Assisted Living Residence Facility, which may include but shall not be limited to overnight accommodations for staff and visitors thereto and offices for staff and management thereof, and (z) the Commons Building to be used as a community facility serving the senior housing complex as well as the general public; (B) the Phase IIa Premises shall be used as a senior housing complex comprised of connected buildings containing approximately one superintendent unit and 160 ILUs for seniors age 55 years and older, one hundred percent (100%) of which shall remain affordable to households whose annual income (as hereinafter defined) is less than 60% of area median income in accordance with the terms of the Regulatory Agreement; (C) the Phase IIb Premises shall be used as a senior housing complex comprised of connected buildings containing approximately 125 ILUs for seniors age 55 years and older, one hundred percent (100%) of which shall be subject to the terms of an HPD/HDC Regulatory Agreement; (D) for purposes ancillary and incidental to the foregoing uses provided that such ancillary and incidental uses promote, and not derogate from, use of	11/11/2015	5 years after Substantial Completion	Grantee shall not convey the premises (or any improvements thereon) and/or rights to use the Emergency Access Easement, or any part of either, except in a Permitted Transfer, without the prior written approval of both the Grantor and the City, acting through the Director of OMB; provided, however, that Grantee, its successors and assigns may not convey the premises (or any improvements thereon) or any part in either, except in a Permitted Transfer, at any time until all buildings and other improvements to be constructed on the premises in Phase I and Phase II pursuant to the deed have been completed. /// III(c) Grantee and each of the Phase II Grantees, on behalf of itself, its successors and assigns, covenant that, for a period of five (5) years from the date of Substantial Completion of the Construction of the Project, each, individually, shall not convey the portion of the Premises it owns (or any improvements thereon) and/or rights to use the Emergency Access Easement, or any part of either, except in a Permitted Transfer (as hereinafter defined), without the prior written approval of both the Grantor and the City, acting through the Director of OMB; provided further, however, that Grantee and Phase II Grantees, their respective successors and assigns may not convey the premises (or any improvements thereon) or any part in either, except in a Permitted Transfer, at any time until all the buildings and other improvements to be constructed on the premises pursuant to this Deed have been completed. Notwithstanding the foregoing, the following conveyances by Grantee or Phase II Grantees, their respective successors and assigns (each a "Permitted Transfer") may each be made at any time without approval of Grantor or the City (other than such background investigation and/or internal due diligence approval required below) unless otherwise specified hereunder: the conveyances of (A) the Commons Building, common areas, infrastructure and rights to use the Emergency Access Easement to a homeowners association ("HOA") comprised in part of and to be controlled and operated by Grantee and Leewood-Seaview LLC or an affiliate, subject to qualification and background investigation and/or other internal due diligence approval, and approval by Grantor (the "Approved HOA"); and/or (B) subject to item
2	11/1/2011	9/21/2019	Grantee, on behalf of itself and its successors and assigns, covenants that, for a period until the later of (i) five years from the date of the Deed and (ii) for each Phase, three (3) years following Substantial Completion of such Phase, the Property shall be used for the development of the Project and rental and/or sale of the residential and commercial units, including any condominium and cooperative units, contained therein and for no other purposes, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as such term is defined in the Deed) securing (a) financing with regard to the purchase of the Property by Grantee, (b) construction financing with regard to construction on the Property, (c) a permanent "take-out" loan with regard to such construction financing or (d) any full or partial replacement or substituted financing for any of the above mentioned financings, and all renewals, extensions, consolidations, amendments or modifications to the foregoing (each such mortgage individually a "Recognized Mortgage" and collectively "Recognized Mortgages" and the Institutional Lender which has given prior written notice to the Grantor of its interest under a Recognized Mortgage is hereinafter referred to as a "Recognized Mortgagee")	11/1/2011	9/21/2028	(i) Grantee, on behalf of itself, its successors and assigns, covenants that prior to the earlier of (a) twelve (12) months following the date that such Phase shall be Substantially Complete and (b) the date on which such Phase shall be Stabilized (the "Release Date") it shall not convey any Phase of the Project except with the prior written approval of Grantor, which approval shall not unreasonably withheld, provided that the proposed transferee is (1) an "Approved Person" (as defined) and (2) a Qualified Developer (as such term is defined in the Deed). From and after the Release Date for either Phase of the Project, Grantee any convey such Phase without the prior consent of Grantor. Grantor shall execute a release of covenants in recordable form at any time upon request of Grantee upon the occurrence of the Release Date. Notwithstanding the foregoing, Grantee may, at any time, without the prior consent of Grantor: (A) enter into retail and/or residential leases for the applicable Phase of the Project; (B) enter into an agreement or lease for the operation and use of the accessory parking portion of the applicable Phase of the Project; (C) sell or lease condominium or cooperative units at the Property to any Persons; and/or (D) act as a declarant under any condominium declaration that may hereafter be established for the
3	4/30/2014	7/7/2034	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of ten (10) years from the Restriction Commencement Date (as defined), all tenants under leases affecting the Retail Unit shall be required to be open for business no less than nine hours each day, at least between the hours of ten o'clock a.m. and seven o'clock p.m., six (6) days a week, except that at least one tenant located on the ground floor of the Retail Unit shall remain open for business between the hours of twelve o'clock p.m. and nine o'clock p.m., six (6) days a week, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not apply to the Retail Unit after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined). Grantee further covenants and agrees that, (1) during the five-year period commencing on the Restriction Commencement Date, the Retail Unit shall not be occupied by in excess of (7) tenants (one of whom shall be at least 10,000 square feet); and (2) for a period of fifteen (15) years from the Restriction Commencement Date, one occupant of the Retail Unit shall be a sit-down full service restaurant. Such sit-down full service restaurant shall not have more than fifteen (15) locations nationally as of April 4, 2012. The term "Restriction Commencement Date" shall mean the earlier of (i) the date that the temporary certificate of occupancy is issued for the Retail Unit or	4/30/2014	7/7/2029	Grantee covenants that, until the Restriction Commencement Date, Albert Labor shall remain a managing member of Grantee unless he is unable to do so by reason of death or disability, in which case, either Jason Labor or Jody Labor shall be managing member of Grantee. Furthermore, for a period of ten (10) years from the Restriction Commencement Date, Grantee shall be controlled and managed by Albert Labor, Jason Labor and/or Joseph Jody Labor (collectively, the "Labor Brothers"). In addition to the foregoing, Grantee, on behalf of itself, its successors and assigns, covenants that, for a period often (10) years from the Restriction Commencement Date, it shall not convey the Retail Unit or any interest in therein, except (i) as a lease(s) to a retail tenant(s) in accordance with the terms of sections (b) above and (d) below, or (ii) with the prior written approval of Grantor. Notwithstanding the foregoing, Grantee, upon written notice to Grantor, may transfer interests (i) among the Labor Brothers, (ii) to trusts for the benefit of any of the Labor Brothers or to their spouses or children or (iii) by devise, descent or by operation of law upon the death of a natural person, or (iv) to trusts in connection with estate planning. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
4	8/22/2014	8/22/2019	Grantee, on behalf of itself and its successors and assigns, covenants that, for a period of five (5) years from the date of final completion of construction of the Project (as evidenced by the issuance of a certificate of occupancy for the Project from the applicable governmental authority, the "Final Completion"), the Property shall be used in connection with the business operations of Grantee's commercial and/or retail tenants and for no other purposes, except with the prior written approval of Grantor. The above restrictions in this paragraph shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing.	8/22/2014	8/22/2019	Grantee, on behalf of itself and its successors and assigns, covenants that, for a period of five (5) years from the date of Final Completion, it shall not convey the Property (or any improvements thereon) or any interest in either, except for leases in the ordinary course of business or otherwise, without the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as hereinafter defined) securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. For the purposes hereof, "Institutional Lender" shall mean a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance company organized and existing under the laws of the United States or any state thereof, an investment bank or its affiliate, a religious, or educational institutional, a federal, state or municipal employee's welfare, benefit,
5	11/8/2021	11/8/2026	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years commencing on the date that a certificate of occupancy is issued for the Property (or any portion thereof) for commercial, manufacturing, retail and community facility uses (the "Permitted Uses"), Grantee, or a successor entity approved by the Grantor, shall use the Property for Permitted Uses and for no other purposes, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined in the deed) securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing or to any refinancing.	6/13/2012	11/8/2026	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from the date hereof, it shall not convey the premises (or any improvements thereon) or any ownership interest in either, except with the prior written approval of Grantor, which approval shall not be unreasonably withheld or delayed, provided however, Grantee may, without the prior approval of Grantor, during such period: (i) enter into or impose a condominium or cooperative regime on the Property, if Grantee remains responsible for the day-to-day operations of the Property or (ii) remove the managing member of Grantee, pursuant to the organizational documents of, and other agreements among, Grantee and the parties and entities holding interests therein (including without limitation any "buy-sell" rights inuring to the benefit of Grantee's members), provided that any of the other existing managing members or another pre-approved developer shall be responsible for the day-to-day operations of Grantee and the Property, (iii) enter into one or more joint venture or other arrangements, including a deed of conveyance to the Property to a new entity, (iv) change or transfer the interest of any member without Grantor's consent provided the existing members continue to hold, at least a twenty-five percent (25%) interest in

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6	11/30/2015	11/30/2020	Grantee, on behalf of itself, its heirs, successors and assigns, covenants that, for a period of five (5) years from the Construction Completion Date, the Premises shall be used in connection with the non-residential business operations and corporate purposes of the Users, for the operation of a supermarket, restaurant, and other retail and office uses on Lot 59, Lot 60 and Lot 30, and for no other purposes, except with the prior written approval of Grantor. The above restrictions in this paragraph shall not apply to the Premises after a foreclosure sale or transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Premises by Grantee or construction financing with regard to construction on the Premises or a permanent "take-out" loan with regard to such construction financing. Grantee, on behalf of itself, its heirs, successors and assigns, further covenants to develop and use the Premises in strict accordance with, and otherwise to comply with and conform to, the Urban Renewal Plan (as defined in the Deed).	11/30/2015	11/30/2020	Grantee, on behalf of itself, its successors and assigns, covenants that, except as provided below, for a period of five (5) years from the Construction Completion Date, it shall not convey the Premises (or any improvements thereon) or any interest in either to any entity other than an Affiliate, except with the prior written approval of Grantor; provided that such Affiliate has submitted qualification and background investigation forms required by Grantor and the review by Grant and Grantor's Inspector General revealed no information which under Grantor's and/or the City's policies would preclude the sale of the Property to such person or entity, and provided further that Grantee, its successors and assigns may not convey the Property (or any improvements thereon) or any interest in either at any time until the buildings to be constructed on the Property pursuant to the Deed have been completed, except with the prior written approval of Grantor. Grantee may convey part of Property to a not-for-profit office User in connection with that part of the Property being subjected to a condominium regime pursuant to a declaration of condominium in accordance with the New York Condominium Act, but Grantee may not convey until construction is complete, except with the prior written approval of Grantor. The above restrictions and
7	2/21/2013	2/21/2033	twenty (20) years from the date of the Deed (the "Restricted Period"), the Property shall be used (x) as either a toy store, pre-natal, newborn infant and children's specialty store or any combination of the foregoing; and (y) for purposes related to the foregoing uses described in Section 7(a)(x), including the sale, rental or distribution of items, individually or in the aggregate, customarily carried by a toy store or prenatal, newborns, infants and children's specialty store, including, without limitation, to; indoor and/or outdoor play and recreational equipment; wheel goods; children's, infant and juvenile sporting goods, food or health and beauty aids; newborn, infants, juveniles and children's books, records, audio and video tapes and cassettes, compact discs, CD-ROMs and other visual and audio technological evolutions thereof, infant, juvenile and children's clothing, apparel, footwear, accessories, furnishings, furniture, cradles, bedding or recreational equipment; children's family and adult games, computers and related hardware, software and peripherals used primarily for game purposes (as distinguished from computers used primarily for business applications); video, electronic, and computer games and equipment, CD-ROMs and video and audio technological evolutions thereof, including, without limitation, game cartridges and consoles or other mechanical equipment necessary to play such games; prenatal hems and equipment; baby's clothing, layettes, cribs, car seats, booster seats, carriages, strollers, playpens or other equipment and accessories; or as a hair cutting salon or a photo studio exclusively for newborns, infants, juveniles and children (the "Restricted Uses"), and for no other purposes, except with the prior written approval of the Grantor. Notwithstanding the foregoing, the uses permitted under the Easements shall be governed by the terms and conditions within the Easements. Grantee, on behalf of itself and its successors and assigns, further covenants that, until the expiration of the fifth (5th) year of the Restricted Period, it shall operate a business at the Property for the Restricted Use; provided, however, that during such five (5) year period Grantee shall have the right to temporarily cease business operations: (i) to permit the repair of damage to, or undertake maintenance of, the Property or any improvements thereon, as is conducted in Grantee's ordinary course of business; (ii) to undertake alterations or refurbishing of the building or other improvements on the Property, as is conducted in Grantee's ordinary course of business; (iii) due to a taking by condemnation or eminent domain	2/21/2013	2/21/2018	expiration of the fifth (5th) year of the Restricted Period, it shall not convey or lease the Property (or any improvements thereon), and/or rights to use the Access and Parking Easements which benefit the Property, or any interest in either, except with the prior written approval of Grantee; provided, however, that notwithstanding anything to the contrary, Grantee, its successors and assigns may convey the Property and all improvements thereon and rights to use the Access and Parking Easements or any interest in any of them, without Grantor's consent if such conveyance or lease (i) is to an Affiliate of Grantee, or (ii) is in connection with a change of the form of Grantee's entity, or the successors or assigns of such entity ("Entity"). A change of form of the Entity contemplated hereby shall include, without limitation, the Entity's being reorganized or reconstituted as a limited liability company, partnership or other legal form of entity, its going private, or its engaging in a business restructuring, provided that the owners of Grantee, and the interests of such owners in Grantee, at the time of the Closing, remain the same in such restructured entity. Each of (i) and (ii) above shall hereby be deemed a "Permitted Transfer", and each person or entity receiving the Permitted Transfer benefitting from such transfer is hereby deemed a "Permitted Transferee". In addition, in no event shall Grantee, its successors or assigns be deemed to have made a conveyance in violation of the restriction set forth in this Section 7(b) in connection with (1) the sale of stock of Grantee, its successors or assigns in a public offering, (2) a sale of stock or other ownership interests if Grantee, its successors or assigns is a corporation whose stock is listed and traded on a nationally or internationally recognized stock exchange or a corporation or other entity whose stock or ownership interests are listed and traded on a nationally or internationally recognized over the counter market, (3) a transfer of privately held interests by bequest, devise or intestate succession, or (4) any mortgage financing or sale leaseback transaction by an Institutional Lender (as hereinafter defined), including a sale leaseback transaction at the Closing made in connection with Grantee's financing of the purchase of the Property, a foreclosure sale or other
8	6/11/2013	6/11/2018	Grantee, on behalf of itself, successors and assigns, covenants that, for a period of five (5) years from the date hereof, the Property shall be used in connection with the nonresidential business operations and corporate purposes of D&J Service, Inc., D-J Ambulette Service Inc. (d/b/a CITICARE), and M.J.S.A., Inc. (d/b/a CITICAR) (collectively, the "Users" and each individually a "User"), primarily in connection with the Users' transportation business and for no other purposes, except with the prior written approval of Grantor (the "Project"). The above restrictions in this paragraph shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to such construction financing.	6/11/2013	6/11/2018	five (5) years from the date hereof, it shall not convey the Property (or any improvements thereon) or any interest in either, except as part of a bona fide sale of Grantee's and/or the Users' entire businesses with the prior written approval of the Grantor. Notwithstanding the foregoing, during this period of five years, with the prior written approval of Grantor, which approval shall not be unreasonably withheld, Grantee may enter into a lease agreement with tenant(s), provided that (i) such tenant(s) satisfy the following conditions: (A) the managing members of the Grantee or spouses of the managing members of the Grantee, will have the controlling interests of the tenant(s); (B) at Grantor's request, the tenant(s), its shareholders, officers, directors, and/or principals shall submit a qualification and background investigation form and such form shall have revealed no derogatory information; and (ii) Grantee provides Grantor for its review and approval, which approval shall not be unreasonably withheld, a copy of the proposed lease agreement, at least sixty (60) days prior to the commencement date of the proposed lease agreement. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing, not to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, until the latter of (x) completion of the construction required on the Property by this deed and (y) five (5) years from the date hereof, any additional member in Grantee, and any change in the interest of any member of Grantee, must be approved in writing by Grantor which approval shall not be unreasonably withheld, delayed or denied, provided, however, that any transfer to current members of the Grantee and/or family members of the principals of the Grantee that does not result in ownership of 40% of the membership interest of the Grantee by any individual transferee and does not

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9	7/11/2017	7/11/2022	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from the date of final completion of the Construction (as evidenced by the issuance of a temporary certificate of occupancy for the premises from the applicable governmental authority, (the "Final Completion"), the Property and any improvements thereon shall be used in connection with the business operations of Grantee and Grantee's commercial and/or retail tenants and for a community facility of approximately 3,700 square feet and for no other purposes, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not apply to the premises after a foreclosure sale or transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the premises by Grantee or construction financing with regard to construction on the premises or a permanent "take-out" loan with regard to such construction financing.	7/11/2017	7/11/2022	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from the date of the Final Completion, it shall not convey the premises (or any improvements thereon) or any interest in either, except for leases in the ordinary course of business or otherwise, without the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the premises by Grantee or construction financing with regard to construction on the premises or a permanent "take-out" loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, no stock of Grantee may be sold, assigned or otherwise transferred, nor may any additional stock in Grantee be issued, until five (5) years from the date of the Final Completion, without the written approval of Grantor. Grantee agrees to provide Grantor with such information as Grantor needs in deciding whether to give any approval required hereby. Any request for approval by Grantor of any of the above matters, and any notice to Grantor, and any notice of approval or disapproval by Grantor, shall be in writing and given by mailing the same by certified or registered mail addressed as specified in the Deed.
10	7/10/2013	6/18/2040	Building shall be constructed predominantly for residential, community facility and commercial uses, including 50,000 interior gross square foot cultural space. The use of ground floor of the ground floor of building is restricted to commercial or community facility uses. (excluding such portions of the ground floor that are (i) a part of the City Unit(s), (ii) used for mechanical or other building systems, (iii) necessary to provide ingress and egress to the Building, (iv) customary "back of the house" uses), (v) used as common areas, a parking ramp for the Parking Facility or to provide access to various amenities in the Building. Sponsor shall make good faith efforts to make a portion of the Building available for use as a "destination restaurant." The Plaza will be used for public open space purposes as determined by the City OED. The Condominium will consist of two units with appurtenant common elements. At least one unit will be owned by the Sponsor (Developer Unit), which may be used for residential, commercial, or other uses permitted under zoning regulations. One or more additional units, comprising the Plaza and Community Space, will be conveyed to the City and shall be used for community space.	7/10/2013	12/4/2019	Promptly following the completion of the Initial Scope of Work, Sponsor shall convey to the City, or its designee, the City Unit(s) and the respective rights to the limited common elements and common elements appurtenant to the City Unit(s), free and clear of all encumbrances other than the Declaration. Prior to Completion of Construction, Sponsor shall not permit any total or partial conveyance of the Disposition Area.

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
11	12/11/2013	12/28/2026	Grantee, on behalf of itself, its heirs, successors and assigns covenants for a period ending on the tenth (10th) anniversary of the Full Vacancy Date, the premises shall only be used for any lawful use permitted under the Zoning Resolution of New York City in effect as of the date of the Contract (as defined below), including, without limitation: (1) for residential rental apartments and/or condominium units and uses incidental to such residential use, such as residential amenities, laundry facilities, storage space, home offices and commercial space; (2) for hotel purposes and uses incidental to such hotel use, such as restaurant space, banquet space, event space, catering uses, meeting rooms, spa, retail and health facility uses; (3) for retail and restaurant uses; (4) for parking purposes and/or (5) for office use and ancillary uses; provided, however, for such period the premises may not be used for Prohibited Uses (as defined below). The above restrictions in this paragraph 2 shall not apply to the premises after a foreclosure sale or a transfer in lieu of foreclosure under or in connection with a Recognized Mortgage.	12/11/2013	The latest of Substantial Completion, the Stabilization Date or the 5th anniversary of the date of the deed	Grantee, on behalf of itself, its heirs, successors and assigns covenants until the fifth (5th) anniversary of the date of this deed, Grantee shall not convey the premises or any interest in either, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under or in connection with a Recognized Mortgage, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, the conveyance of (a) residential condominium units, (b) occupied commercial condominium units below grade or on the ground floor or (c) commercial condominium units below grade or on the ground floor to parties intending to occupy such space, nor to the subsequent conveyance of any such condominium units (any of the foregoing units described in clauses (a), (b) and (c), a "Condominium Unit"). A sale of more than five (5) residential condominium units in a single transaction or a group of related transactions other than for occupancy by the purchaser or any family member(s) of the purchaser shall not be deemed to satisfy the requirements of the immediately preceding sentence, and such residential condominium units shall not be deemed to constitute "Condominium Units", for purposes of this deed. In addition to the foregoing, until the latest of Substantial Completion, the Stabilization Date or the fifth (5) anniversary of the date of this deed, any additional member in Grantee, and any change in the interest of any member of Grantee in Grantee, must be approved in writing by Grantor, other than Post-Closing Permitted Transfers.
12	5/16/2019	5/16/2029	Grantee, on behalf of itself, its successors and assigns, covenants that for a period of ten (10) years from the date that the temporary certificate of occupancy is issued for the uses described in (a) hereof (the "Use Period"), the Property shall be used for the Permitted Use and no other purpose, where Permitted Use is defined as non-residential business operations and corporate (other than exclusively office space) purposes of Grantee's retail tenants and other customer-service business tenants. The above restriction in this paragraph shall not apply to the Property after a foreclosure or a transfer in lieu of foreclosure under a mortgage held by a Lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing or refinancing. The above covenants in this paragraph shall run with the land and shall continue to be binding on Grantee and its successors and assigns.	12/20/2013	5/16/2024	five (5) years from the date hereof, it shall not convey the Property (or any improvements thereon) or any interest in either, other than by a space lease or ground lease to a tenant for the Permitted Use, except with the prior written approval of Grantor; provided, however, Grantee may, without the prior approval of Grantor, during such period: (i) enter into or impose a condominium or cooperative regime on the Property, if Grantee remains responsible for the day-to-day operations of the Property or (ii) remove the managing member of Grantee, pursuant to the organizational documents of, and other agreements among, Grantee and the parties and entities holding interests therein (including without limitation any "buy-sell" rights inuring to the benefit of Grantee's members), provided that Guido Passarelli and his family members (or trusts for their benefit) hold not less than 51% of the interests in G Pass, LLC or Edward Blumenfeld and his family members (or trusts for their benefit) hold not less than 51% of the interests in Bricktown Enterprises, LLC and either Guido Passarelli or Edward Blumenfeld is responsible for the day-to-day operations of Purchaser and the Property or a pre-approved developer that is not an "Unqualified Person" shall be responsible for the day-to-day operations of Purchaser and the Property, or (iii) with respect to the limited member of Grantee, transfer membership interests among existing members and parties holding interests therein. The above restrictions and covenants in this paragraph shall not prohibit, or apply to a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by a Lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing or any refinancing thereof, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, until the later of (x) Substantial Completion and (y) five (5) years from the date of the Deed, any additional member in Purchaser and any change in the interest of any member of Purchaser in Purchaser must be reasonably approved in writing by Seller; provided, however, that Purchaser shall be entitled to add additional

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
13	12/30/2013	12/30/2018	I Land, covenants to perform or cause to be performed the following obligations (the "Phase I Obligations"): (e) Upon Substantial Completion of the South Garage and the opening of the South Garage to the public, maintain and operate a minimum of 1,144 Public Parking Spaces on the Property in compliance with the Parking Declaration. (f) Upon the Substantial Completion of the South Garage and the opening of the South Garage to the public, maintain and operate a minimum of 982 Public Parking Spaces in the South Garage in compliance with the Parking Declaration and continue to use that portion of the Property where the South Garage is located for Public Parking Spaces only and for no other purpose. 3. Phase II Property Owner, on behalf of itself, its successors and assigns as owner of the Phase II Land, covenants to perform or cause to be performed the following obligations (the "Phase II Obligations"): (b) After Substantial Completion of the South Garage and the opening of the South Garage to the public and until Phase II Project Construction Commencement, maintain and operate a minimum of 618 Public Parking Spaces on the Phase II Land in compliance with the Parking Declaration. Following Phase II Project Construction Commencement, maintain and operate a minimum of 162 Public Parking Spaces on the Phase II Land in compliance with the Parking Declaration. (f) After the Substantial Completion of the North Garage, maintain and operate a minimum of 618 Public Parking Spaces in the North Garage and continue to use that portion of the Property where the North Garage is located for Public Parking Spaces only and for no other purpose in accordance with the Parking Declaration. 5. After Substantial Completion of the Open Space, the Open Space shall be operated and maintained in accordance with the Declaration GLSD and for no other purpose. 11. For a period commencing on the date hereof until five (5) years from the date of Substantial Completion of the Phase I Project, the Phase I Project shall be used in accordance with the City Planning Approval and for no other purposes, except with the prior written approval of Grantor. (Phase I Reverted Obligation) 12. For a period commencing on the date hereof until five (5) years from the date of Substantial Completion of the Phase II Project, Building E (including the YMCA Unit being used as a recreational and community facility) and the Open Space shall be used in accordance with the City Planning Approval and for no other purposes, except with the prior written approval of Grantor. (Phase II Reverted Obligation)	12/30/2013	12/30/2018	that, from the date hereof until five (5) years from the date of Substantial Completion of the Phase I Project, it shall not convey fee title to the Property or any portion thereof (or any improvements thereon) or any interest in either, except (i) with the prior written approval of Grantor, (ii) after Substantial Completion of all of the Phase I Project, a conveyance of all or any portion of the Phase I Land and improvements thereon, (iii) after Substantial Completion of all of the Phase I Project, or, if applicable, upon the Phase II Alternate Closing Date, a conveyance of the Phase II Land to Phase II Property Owner as permitted pursuant to Section 8(b) of this Indenture; (iv) the grant of a leasehold interest to a User or the conveyance of a Unit to a User; and/or (v) the conveyance of the South Garage or the North Garage, after Substantial Completion thereof, to a successor grantee approved by Grantor, such approval not to be unreasonably withheld or delayed. /// 3. Phase II Property Owner, on behalf of itself, its successors and assigns as owner of the Phase II Land, covenants to perform or cause to be performed the following obligations (the "Phase II Obligations"): (e) (ii) convey the YMCA Unit to the YMCA or a Default User, all in accordance with the terms of the YMCA Contract, or a replacement contract with the Default User (which shall be on substantially the terms of the YMCA Contract), and (iii) cooperate in good faith with Grantor to identify a Default User in the event the YMCA Contract is terminated. For purposes of identifying a Default User, Grantor is hereby deemed a Default User satisfactory to Phase II Property Owner in the event Grantor, in its sole and absolute discretion, elects to be a Default User. If Phase II Property Owner fails to obtain a temporary certificate of occupancy for Building E by the Substantial Completion deadline for the Phase II Project solely as a result of the YMCA's failure to complete the fit-out of the YMCA Unit, such failure by YMCA shall be deemed an Unavoidable Delay. Failure by Phase II Property Owner to reach agreement with the YMCA on an amendment to the YMCA Contract or the design of the YMCA Unit shall not be deemed an Unavoidable Delay. 7. Phase I Property Owner, on behalf of itself, its successors and assigns, covenants that, from the date hereof until five (5) years from the date of
14	7/23/2014	7/23/2021	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from the date of Substantial Completion of the Project required on the Property hereof, the Property shall be used in connection with the business operations of Grantee and Grantee's commercial and/or retail tenants, as well as its residential tenants in the event that Grantee constructs a residential tower on top of the Project and for no other purposes, except with the prior written approval of Grantor. The above restrictions in this paragraph shall not apply to the Property after a foreclosure sale or transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing.	7/23/2016	7/23/2021	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from the date of Substantial Completion of the Project, it shall not convey the Property (or any improvements thereon) or any interest therein, except for leases in the ordinary course of business or otherwise, without the prior written approval of Grantor. In addition to the foregoing, no membership interests of Grantee may be sold, assigned or otherwise transferred, nor may any additional membership interests in Grantees be issued, until five (5) years from the date of Substantial Completion, without the written approval of Grantor. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. Grantee agrees to provide Grantor with such information as Grantor needs in deciding whether to give any approval required hereby. Any request for approval by Grantor of any of the above matters, and any notice to Grantor, and any notice of approval or disapproval by Grantor, shall be in writing and given by mailing the same by certified or registered mail addressed as specified in the Deed.

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
15	10/8/2014	10/8/2024	(10) years from the date hereof, the Premises shall be used in connection with the non-residential business operations and corporate purposes of Grantee, primarily in connection with education and related purposes and far no other purposes, except with the prior written approval of Grantor. The above restrictions in this paragraph shall not apply to the Premises after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender securing financing with regard to the purchase of the Premises by the Grantee herein or construction financing with regard to construction on the Premises or a permanent "take-out" loan held by an Institutional Lender with regard to such construction financing. For purposes of this deed, an "Institutional Lender" means (a) any savings bank, savings and loan association, commercial bank or trust company (whether acting individually or in a fiduciary capacity) or an entity controlled by, controlling or under common control with any of the foregoing, (b) an insurance company organizing and existing under the laws of the United States or any state thereof, (c) a real estate investment trust, a trustee or issuer of collateralized mortgage obligations, a loan conduit or other similar investment entity which (1) is regularly engaged in the business of providing debt or equity financing and (2) acts through an institutional trustee, (d) a religious, educational or eleemosynary institution, a federal, state, or municipal employee's welfare, benefit, pension or retirement fund, any governmental agency or entities insured by a governmental agency, a credit union, trust or endowment fund, (e) any brokerage or investment banking organization regularly engaged in the business of providing debt financing, (f) any combination of the foregoing entities or (g) a governmental or quasi-governmental entity providing all or a portion of the financing for the construction of the building on the Premises as it exists on the date hereof, including, but not limited to, the City of New York, acting by and through one or more of its agencies; *provided, however*, that each of the above entities, other than the entities described in clause (g) above, shall qualify as an Institutional Lender only if it shall also (I) be subject to service of process within the State of New York and (II) have a net worth, directly or indirectly, of not less than FIVE HUNDRED MILLION DOLLARS ($5,000,000,000.00) and assets, directly or indirectly, of not less than FIVE BILLION DOLLARS ($5,000,000,000.00).	10/8/2014	10/8/2019	Grantee, on behalf of itself, its heirs, successors and assigns, covenants that, for a period of five (5) years from the date hereof, it shall not convey the Premises (or any improvements thereon) or any interest in either, except with the prior written approval of Grantor. Notwithstanding the above, Grantee may enter a lease or leases for the basement and first floor of the building on the Premises as it exists on the date hereof, provided such spaces are used for the educational purposes provided in paragraph I(a) ("Permitted Transfer"). The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender securing financing with regard to the purchase of the Premises by the Grantee herein or construction financing with regard to construction of the building on the Premises as it exists on the date of this Deed or a permanent "take-out" loan held by an Institutional Lender with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. Grantee approves to provide Grantor with such information as Grantor needs in deciding whether to give any approval required hereby. Any request for approval by Grantor of any of the above matters, and any notice to Grantor, and any notice of approval or disapproval by Grantor, shall be in writing and given by mailing the same by certified or registered mail addressed as specified in the Deed.
16	7/15/2015	7/15/2025	years from the date hereof, the Property shall be used in connection with the non-residential business operations and corporate purposes of Grantee, New York Proton Management, LLC ("Proton Management"), or either of their respective affiliates, successors and assigns, and/or The New York Proton Center ("NYPC"), as an ambulatory diagnostic and treatment healthcare facility, including as a proton beam cancer therapy center, and for other ancillary healthcare-related services and accessory uses as shall be permitted by the Zoning Resolution (the "Project"), and for no other purposes, except with the prior written approval of Grantor. The restrictions and covenants above shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage or pledge of the equity ownership interests held by an Institutional Lender securing financing with regard tot he purchase of the Property by grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing (and/or any extensions, renewals, refinancings or modifications of the above described financings), nor to any sale or other transfer subsequent to such foreclosure sale or transfer in lieu of foreclosure. "Institutional Lender" means (A) any savings bank, a savings or loan association, a commercial bank, a trust company, a foreign bank or a credit corporation (whether acting individually or in a fiduciary capacity) or an affiliate of the foregoing, (B) an insurance company organized and existing under the laws of the United States or any state thereof (either for its own account or in a fiduciary capacity) or an organized and existing subsidiary wholly owned by such insurance company, (C) a real estate investment trust, a trustee, or issuer of collateralized mortgage obligations, a loan conduit or other similar investment entity, which (i) is regularly engaged in the business of providing debt financing and (ii) acts through an institutional trustee, (D) a religious, educational or eleemosynary institution, a federal, state, or municipal employee's welfare, benefit, pension or retirement fund or pension advisory firm, any governmental agency or entity insured by a governmental agency, a credit union, trust or endowment fund, (E) any brokerage, money management firm, mutual fund, investment banking organization or private equity fund or private investment fund, regularly engaged in the business of providing debt financing, (F) Goldman Sachs & Co, Inc. ("Goldman"), or JPMorgan Chase Bank, N.A.	7/15/2015	7/15/2025	which is eighteen (18) months after the date that the first patient receives treatment pursuant to the Project, Grantee shall not convey the Property (or any improvements thereon) or any fee interest in either, except (i) to an affiliate of Grantee, (ii) to Proton Management or its affiliates, provided that NYPC, a New York not-for-profit corporation, or one or more of the constituent members of Proton Management retains operational control, (iii) to one or more of the constituent members (e.g. Memorial Sloan Kettering Cancer Center, Montefiore Medical Center, Mount Sinai Medical Center, and/or ProHealth Medical Management, LLC, or its or their affiliate(s)) holding a direct or indirect interest in Proton Management or NYPC, or (iv) with the prior written approval of Grantor; provided, however, that Grantee, its successors and assigns, may not convey the Property (or any improvements thereon) or any fee interest in either at any time until the Building to be constructed on the Property pursuant to this deed has been completed, except (A) to an affiliate of Grantee, (B) to NYPC or an affiliate, (C) to Proton Management or an affiliate, or (D) with the prior written approval of Grantor. (i) Notwithstanding the above permitted transfers, for a period of ten (10) years from he date hereof, one or more of Proton Management's constituent members identified in this paragraph E (or its or their affiliates) must retain operational control of the Project. (ii) The above restrictions and covenants in this paragraph (E) shall run with the land, but shall not prohibit, or apply to (a) any lessee or sublessee of the Property (or any improvements thereon) for the uses permitted hereunder so long as subparagraph (E)(i) shall be complied with, or (b) to any Institutional Lender (or its successors or assigns) that acquires the Property, directly or indirectly, through a foreclosure sale or a transfer in lieu of foreclosure under a mortgage or a pledge of the equity ownership interests held by an Institutional Lender securing financing with regard to the purchase of the Property by Grantee or construction financing with regard to construction on the Property by Grantee or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing (and/or any extensions, renewals,

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
17	11/25/2015	11/25/2035	on the tenth (10th) anniversary of the date hereof (the "Restriction Period"), the Premises shall not be converted to dormitory use. Grantee covenants and agrees that, for the Restriction Period, the Premises shall include 15,000 square feet of Floor Area devoted to community facility uses; provided, however, that if the Premises shall be converted to a condominium form of ownership, then from and after such conversion only the Community Facility Unit (as defined below) shall be required to include 15,000 square feet of Floor Area devoted to community facility uses for the balance of the Restriction Period. Community Facility Space. An approximately 15,000 square foot portion of the Property (the "Community Facility Space") shall be a community facility space in perpetuity and shall initially be used as a cultural facility for a period of at least twenty (20) years, subject to the Protocol (as hereinafter defined). Retail Space. (a) Owner, together with the Other Owners (as defined in the Operating Agreement), will make good faith efforts to provide a dynamic mix of retail tenants, providing a balance between serving the needs of local residents and workers and destination retail. Owner, together with the Other Owners, will make best efforts to prevent a high concentration of bars, night clubs and other night life establishments. These retail commitments shall apply to all retail space on the Property (each such space, a "Retail Space") and shall apply for a period of fifteen (15) years (except as otherwise noted below), subject to the Protocol: (1) Except for the supermarket/grocery store, retailers larger than eighteen thousand (18,000) square feet will be located above or below the ground floor level (with a grade space provided only for an access lobby). (2) Retail spaces will not exceed thirty thousand (30,000) square feet with the exception of a supermarket/grocery store, fitness center and movie theater. (3) Not including the supermarket/grocery store, movie theater, bowling alley, and fitness facilities, there will be no more than three retailers within the Project larger than eighteen thousand (18,000) square feet. Additionally, Owner (and/or the Other Owners) agrees to make commercially reasonable efforts to lease at least one of these spaces to a home goods retailer. (4) Owner (and/or the Other Owners) shall provide no fewer than forty (40) "micro-retail" spaces of between fifty (50) square feet and one thousand (1,000) square feet within the Project. This commitment shall apply for ten (10) years. The Owner and the Other Owners intend to locate the "micro-retail" within an	11/25/2015	11/25/2025	transfer or convey the Premises or any interest therein without the prior written approval of Grantor (which may be granted, withheld or conditioned in Grantor's sole discretion). Notwithstanding the foregoing, Grantee shall have the right, without the requirement of Grantor's approval, to transfer or convey any or all of its interest in the Premises to a Permitted Person, provided (A) the Completion of the Construction Work shall have occurred prior to such transfer or conveyance and (B) such transfer or conveyance shall be a part of a bona fide sale of the entire business of Grantee's parent company. (a) (1) Owner's interest under the Operating Agreement shall not be assigned, nor shall Owner divest itself of any interest herein, (x) without the prior written consent of NYCEDC, if and to the extent same shall be prohibited under the Deed and (y) without the prior written consent of HPD, if and to the extent same shall be prohibited under that certain Land Disposition Agreement dated as of the date hereof between the City, acting by and through HPD, and NYCEDC or that certain deed dated as of the date hereof between the City, acting by and through HPD, and NYCEDC (collectively the "NYCEDC Acquisition Documents"). (2) In the case of a transfer of Owner's interest in this Agreement, all references herein to Owner shall be deemed to mean only such transferee. (3) The parties hereto acknowledge that the Deed and the NYCEDC Acquisition Documents contemplate that the Property will be subjected to a condominium form of ownership and, following the completion of the building to be located the Property, legal title to the portions of the Property comprised of the Community Facility Space and Retail Space (collectively, the "Non-Residential Space") will be conveyed to one or more unit owners (together with their respective successors and/or assigns, collectively, the "Non-Residential Owners" and each, individually, a "Non-Residential Owner"), with the residential portion of the Property being retained by Site 1 DSA Owner LLC (together with its successors and/or assigns, the "Residential Owner"). In such case, from and after the conveyance of the Non-Residential Space to the Non-Residential Owners, and notwithstanding anything to the contrary contained in the Operating Agreement, the obligations of Owner under the
18	7/1/2021	12/12/2027	Grantee, on behalf of itself, its successors and assigns, covenants that, for a period of five (5) years from Completion of the Construction of the Building to be constructed on the Premises pursuant to this Second Modification, the Building shall be used for Grantee's business purposes, including truck fleet service center for repairs, servicing, fabrication and enhancement of custom trucks and for no other purposes, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph (B) shall run with the land. The above restrictions and covenants in this paragraph shall not apply to the Premises after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender securing a loan with regard to such acquisition or construction financing and/or a permanent take-out loan with regard to such construction financing. "Institutional Lender" shall mean (a) any savings bank, savings and loan association, commercial bank or trust company (whether acting individually or in a fiduciary capacity) or an entity controlling or under common control with any of the foregoing, (b) an insurance company organized and existing under the laws of the United States or any state thereof, (c) a religious, educational or eleemosynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, (d) any governmental agency or entities insured by a governmental agency, a credit union, trust or endowment fund, (e) any brokerage or investment banking organization regularly engaged in the business of providing debt financing, (f) any combination of the foregoing entities, and any other Person approved by Grantor, such approval not to be unreasonably withheld, delayed or conditioned; *provided, however,* that each of the above entities shall qualify as an Institutional Lender only if it shall (i) be subject to service of process within the State of New York and (ii) have a net worth, directly or indirectly, of not less than FIVE HUNDRED MILLION DOLLARS ($500,000,000) and assets, directly or indirectly, of not less than FIVE BILLION DOLLARS ($5,000,000,000).	7/1/2021	12/12/2027	prior to the date of Completion of Construction, Grantee shall not convey the Premises (or any improvements thereon) or any interest in either, except with prior written approval of Grantor. Grantee, on behalf of itself, its successors and assigns, further covenants that until five (5) years after the date of Completion of Construction, Grantee shall not convey the Premises (or any improvements thereon) or any interest in either, except (a) pursuant to an "Excluded Transaction" as defined herein, or (b) an easement for purposes of access or infrastructure construction or maintenance (provided, however, that all over approvals required by the Deed and this Modification, if any, are obtained), or (c) with the prior written approval of Grantor at Grantor's reasonable discretion. "Excluded Transaction" for purposes of this paragraph does not require prior written approval of Grantor, and includes a sale of the Building and/or Premises: (i) to an affiliate or wholly-owned subsidiary; (ii) in connection with a sale of all or substantially all of Grantee's assets or its shared; or (iii) to an entity in connection with a direct leaseback to Grantee from the purchasing entity of all or substantially all of the Premises. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph (C) shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender securing financing with regard to construction financing with regard to construction on the Premises or a permanent take-out loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, at all times prior to Completion of Construction, no membership interest in Grantee may be sold, assigned or otherwise transferred, without the prior approval of Grantor, at Grantor's reasonable discretion. Following Completion of Construction and for five (5) years after the date of Completion of Construction, no membership interest in Grantee may be sold, assigned or otherwise transferred, without the prior approval of Grantor, at Grantor's reasonable discretion, unless it is an Excluded Transaction, as defined herein or a Family Transfer (as

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
19	5/20/2016	3/26/2029	Grantee, on behalf of itself, its successors and assigns, covenants that, from the date hereof and for a period of ten (10) years form the date of final completion of construction on the Property as required herein (as evidenced by the issuance of a temporary certificate of occupancy for the Property from the applicable governmental authority, "Final Completion"), the Property shall not be used for any use other than the Project (in each case subject to periods when there may not be operations due to alterations, vacancy, casualty, interruption of services or other reasons) and for no other purposes, except with the prior written approval of Grantor. The above restrictions in this paragraph shall not apply to the Property after a mortgage or UCC foreclosure sale, appointment of a receiver or exercise of any other similar remedy, or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to the purchase, development, leasing, improvement, sale or refinancing of the Property or construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing (a "Mortgagee").	5/20/2016	3/26/2029	commencing on the date hereof and ending on the date that shall be ten (10) years from the date of Final Completion, it shall not convey the Property (or any improvements thereon) or any interest therein, except for leases, licenses and other use agreements in the ordinary course of business or otherwise, without the prior written approval of Grantor, which approval shall not be unreasonably withheld, conditioned, or delayed. In addition to the foregoing, for the period commencing on the date hereof and ending on the date of Final Completion, no membership interests of Grantee may be sold, assigned or otherwise transferred, nor may any additional membership interests in Grantee be issued, without the written approval of Grantor. In addition, after Final Completion until the date that shall be ten (10) years from the date of Final Completion, (i) transfers of interests in Grantee are permitted without Grantor consent to holders of direct or indirect interests in Grantee and to family members of trusts for estate planning purposes of members in Grantee or of other holders of direct or indirect interests in Grantee, in each case provided Richard Wagman and/or Joseph Jacobson (or one or more persons who shall succeed thereto who have been approved by Grantor) remain(s) the person(s) in day to day control of Grantee; (ii) the sale of a non-controlling interest in Grantee to any other person is permitted without Grantor consent, provided Richard Wagman and/or Joseph Jacobson (or one or more persons who shall succeed thereto who have been approved by Grantor) remain(s) the person(s) in day to day control of Grantee, and (iii) indirect transfers of interests in Grantee are permitted without Grantor consent pursuant to the previsions of that certain Limited Liability Company Agreement of MC VNO SOHO, LLC, a New York limited liability company, the sole member of Grantee, provided Richard Wagman, Joseph Jacobson, and/or MC VNO SOHO, LLC (or one or more person(s) who shall succeed thereto who have been approved by Grantor) remain(s) the person(s) in day to day control of Grantee. Such approvals of Grantor shall not be unreasonably withheld, conditioned or delayed. The above restrictions and covenants in this paragraph shall not prohibit, or apply to (i) a mortgage or UCC foreclosure sale,
20	11/1/2017	11/1/2027	Grantee covenants and agrees that, for the period commencing on the date hereof and ending on the tenth (10th) anniversary of the date hereof (the "Restriction Period"), the Premises shall not be converted to dormitory use, it being agreed and acknowledged that the use of the Premises for low-income housing in accordance with the Regulatory Agreement shall not be deemed to be dormitory use.	11/1/2017	11/1/2027	transfer or convey the Premises or any interest therein without the prior written approval of Grantor (which may be granted, withheld or conditioned in Grantor's sole discretion). Notwithstanding the foregoing, Grantee shall have the right, without the requirement of Grantor's approval, to transfer or convey any or all of its interest in the Premises to a Permitted Person, provided (A) the Completion of the Construction Work shall have occurred prior to such transfer or conveyance and (B) such transfer or conveyance shall be a part of a bona fide sale of the entire business of Grantee's parent company. The issuance, sale, assignment or transfer of any direct or indirect ownership interest in Grantee shall be deemed a transfer or conveyance for the purposes of this Section 2.02(b). Notwithstanding the foregoing restrictions on transfer, the following transfers shall be permitted without the requirement of Grantor's approval: (i) Transfers of individual residential condominium and cooperative units; (ii) Space leases of portions of the Premises for commercial or residential occupancy; (iii) Mortgages and pledges to Institutional Lenders and any assignment or transfer arising by virtue of, or following, the exercise of such Institutional Lender's rights under such mortgages and pledges, provided that the assignee or transferee is a Permitted Developer; (iv) Transfer of the Condominium Units (or the beneficial interests therein) to Affiliates of Site 8 DSA Owner LLC; provided, however, that the ownership and control of such Affiliates complies with the requirements of Section 2.02(b)(vi) below; (v) (1) Prior to Completion of the Construction Work, GS may transfer its interests to any Affiliate thereof that is wholly owned, directly or indirectly, by Goldman Sachs Group, Inc. or any Affiliate of GS that owns assets other than an interest in the Project and (2) after the earlier to occur of (x) the date that is five (5) years after the date hereof and (y) Completion of the Construction Work, GS may transfer any of its interests to Institutional Investors; provided, however, that in the event that (A) GS has exercised its rights under Section 2.02(b)(vii) below prior to Completion of the Construction Work, (B) GS has replaced DSA with or retained a Permitted Developer and (C) GS desires to consummate a transfer pursuant to this clause (2), then, in such

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
21	8/3/2016	8/3/2049	Grantee, on behalf of itself, its successors and assigns, covenants that: (i) from the date hereof and continuing in perpetuity, the Property shall be used as a community healthcare and educational facility by not-for-profit groups; and (ii) for 30 years from the date of Completion of construction required on the Property hereby the Property shall be used by not-for-profit groups as a community healthcare and educational facility of Grantee and its affiliates, (in each case subject to periods when there may not be operations due to alterations that are being continuously and diligently progressed or a casualty) and the Property may be used for no other purposes, except with the prior written approval of Grantor. The above use restrictions and covenants in this paragraph shall run with the land.	8/3/2016	8/3/2049	commencing on the date hereof and ending on the date that shall be thirty (30) years from the date of Completion of construction required on the Property hereby (as evidenced by the issuance of a temporary certificate of occupancy for the Property from the applicable governmental authority (the "Final Completion"), it shall not convey the Property (or any improvements thereon) or any interest therein, except (i) as part of a bona fide sale of Grantee's entire healthcare business to another not-for-profit corporation or (ii) with the prior written approval of Grantor; provided, however, that Grantee, its successors or assigns may not convey the Property (or any improvements thereon), or any interest in either, at any time until the construction to be Completed on the Property pursuant to this deed has been Completed, except with the prior written approval of Grantor. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an institutional lender securing financing with regard to construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. "Institutional Lender" means any savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary duty), an investment bank, an insurance company organized and existing under the laws of the United States or any state thereof, a religious, educational or eleemosynary institution, a federal, state or municipal employee's welfare, benefit, pension or retirement fund, any government agency or entity or entity insured by a government agency, a credit union, trust or endowments fund, or any conduit lender of any for the foregoing or any other institutional lender that regularly engages in commercial real estate lending activities; provided, however, that each of the above entities shall qualify as an Institutional Lender only if it shall be subject to services of process within the State of New York and have net assets of not less than Three Hundred Million Dollars ($300,000,000).
22	12/17/2019	12/17/2034	that, for a period of fifteen (15) years from the date of completion (the "Completion Date") of (i) the Renovation and (ii) construction of the New Building (the "Fifteen Year Use Period"), the Property and the Adjacent Property shall be used in connection with the nonresidential business operations and corporate purposes of User or an affiliated entity, primarily in connection with User's or an affiliated entity's aerospace parts manufacturing business and for no other purposes, except with the prior written approval of Grantor. Notwithstanding the foregoing, however, if at any time after five (5) years from the Completion Date through he expiration of the Fifteen Year Use Period, User and/or User's members sell User's entire business to a bona fide, arms-length purchaser or User files for bankruptcy or is involuntarily placed in bankruptcy, than (i) the Property shall, during he balance of the Fifteen Year Use Period, be used primarily in connection with the non-residential business operations and corporate purposes that fall within Use Group 17 of Chapter 2, Use Regulations, of the Zoning Resolution of the City of New York (the "Use Group 17 Purposes") and for no other purposes, except with the prior written approval of Grantor, and (ii) the Adjacent Property shall, during the balance of the Fifteen Year Use Period, be used in connection with the provisions of the Zoning Resolution of the City of New York (the "Zoning Resolution") governing the Adjacent Property, which Zoning Resolution provisions with respect to the Adjacent Property Maxwell Realty shall not seek to change either directly or indirectly during the Fifteen Year Use Period, and for no other purposes. The above restrictions and covenants in this paragraph regarding the Property and the Adjacent Property shall not apply to the Property and/or the Adjacent Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (hereinafter defined) (i) securing construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing or (ii) recorded on the Adjacent Property; provided, however, that notwithstanding the foregoing, in the event of a foreclosure sale or transfer in lieu of foreclosure with respect to the Property, as provided above, which occurs at any time during the Fifteen Year Use Period, the Property shall be used for Use Group 17 Purposes, which use restriction shall run with the land, and for no other purposes, except with the prior written approval of Grantor. For purposes of this deed, an "Institutional Lender" means	12/17/2019	12/17/2024	Grantee and Maxwell Realty, on behalf of themselves, their successors and assigns, covenant that, for a period of five (5) years from the date of completion of (i) the Renovation and (ii) construction of the New Building, they shall not convey the Property (or any improvements thereon) or any interest in either, or the Adjacent Property (or any improvements thereon) or any interest in either, except as part of a bona fide sale of User's entire business or with the prior approval of Grantor. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under (i) a mortgage held by an Institutional Lender securing construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure, or (ii) any mortgage held by an Institutional Lender securing financing with regard to the Adjacent Property, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure. In addition to the foregoing, no membership interest of Grantee or Maxwell Realty may be sold, assigned or otherwise transferred, nor may any additional membership interest in Grantee or Maxwell Realty be issued, until five (5) years from the date of completion of (i) the Renovation and (ii) construction of the New Building without the written approval of Grantor. Grantee agrees to provide Grantor with such information as Grantor needs in deciding whether to give any approval required hereby. Any request for approval by Grantor of any of the above matters, and any notice to Grantor, and any notice of approval or disapproval by Grantor, shall be in writing and given by mailing the same by certified or registered mail addressed as specified in the Deed.

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
23	6/15/2017	2/11/2026	Grantee covenants and agrees that for the period commencing on the date of Deed and ending on the fifth (5th) anniversary of the Completion of the Construction Work, the Premises (other than the City Condo Unit) shall be used solely for the residential, commercial, Community Facility and parking uses specified and for no other purpose, except with the prior written approval of Grantor (which may be granted, withheld or conditioned in Grantor's sole discretion, except as otherwise expressly provided in Section 2.03(a) of the Deed).	6/15/2017	2/11/2026	and ending on the fifth (5th) anniversary of the Completion of the Construction Work, Grantee shall not transfer or convey the Premises or any interest therein without the prior written approval of Grantor (which may be granted, withheld or conditioned in Grantor's sole discretion), except as otherwise expressly provided in this paragraph. Notwithstanding the foregoing, Grantee shall have the right, without the requirement of Grantor's approval, to transfer or convey (i) the City Condo Unit (as defined in the Deed) to the City in accordance with Section 2.01(g) of the Deed, (ii) residential condominium units to third-parties for residential occupancy pursuant to arm's-length transactions, and (iii) a condominium unit to the New York City School Construction Authority, a public benefit corporation of the State of New York ("SCA") for use as a Community Facility for education purposes, including uses ancillary thereto. The two immediately preceding sentences shall not prohibit (x) a foreclosure sale by, or transfer in lieu of foreclosure to, a Recognized Lender that forecloses on its mortgage on the Premises or on the pledge of 100% of the ownership interests in Grantee or in the sole owner of Grantee, as the case may be, such Recognized Lender retains a Qualified Developer (as evidenced by a binding written agreement effective on or prior to the date of the foreclosure or transfer in lieu of foreclosure, to provide a full-services construction and development management services agreement for the Project) and thereafter continues to retain the Qualified Developer (or a replacement Qualified Developer) until the Completion of the Construction Work or (y) a sale or other transfer to a Permitted Person subsequent to such foreclosure or transfer in lieu of foreclosure, provided, that contemporaneously with the consummation of such sale or other transfer, such Permitted Person retains a Qualified Developer (as evidenced by a binding, written agreement effective on or prior to the date of the transfer, to provide a full-services construction and development management services agreement for the Project) and thereafter continues to retain the Qualified Developer (or a replacement Qualified Developer) until the Completion of the Construction Work. The issuance, sale, assignment or transfer of any direct or indirect ownership interests in Grantee
24	10/1/2021	9/20/2027	Grantee, on behalf of itself, its heirs, successors and assigns, covenants that it shall operate and develop the Project Property in accordance with the Urban Renewal Plan and the development plan for the Project Property submitted to and approved by the City and Grantee prior to the date hereof (the "BLDS Plans"), and any amendments thereto, provided by Grantee and approved in writing by Grantor and HPD. The above restrictions shall not apply to the Project Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined in the deed) securing construction financing with regard to construction on the Project Property or a permanent "take-out" loan held by an Institutional Lender with regard to such construction financing, except that (i) for a period of five (5) years from the date of Substantial Completion of the Building, a minimum of 150,000 square feet of "floor area" in the Building shall continue to be used primarily for commercial uses including office and retail uses as permitted under applicable zoning, which in no event shall include hotel, residential or school uses, and (ii) in addition to the requirements in (i), a school must be completed and delivered in accordance with the terms of the SCA Lease.	10/1/2021	9/20/2027	period of five (5) years from the date of Substantial Completion of the Building, it shall not convey the Project Property (or any improvements thereon) or any interest in either, except as permitted under paragraph (E) below or with the prior written approval of Grantor, which approval shall not be unreasonably conditioned, withheld or delayed. The above restrictions and covenants in this paragraph shall run with the land. The above restrictions and covenants in this paragraph shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined in the deed) securing construction financing with regard to construction on the Project Property or a permanent "take-out" loan held by an Institutional Lender with regard to such construction financing, nor to any sale or other transfer subsequent to such a foreclosure sale or transfer in lieu of foreclosure, provided that the transferee of the Project Property shall diligently prosecute the Project to completion in accordance with the requirements in paragraph (C), above. Grantee agrees to provide Grantor with such information as Grantor needs in deciding whether to give any approval required hereby. (E) Grantee, on behalf of its heirs, successors, and assigns, covenants that, for a period of five (5) years from the date of Substantial Completion of the Building, the Project shall be owned by Morris Bailey or Morris Bailey's immediate family members or another legal entity that is no less than 30% owned by and under the "Control" of Morris Bailey or Morris Bailey's immediate family members (e.g., family trust), except with the prior written approval of City OED. The above restrictions in this paragraph (E) shall not apply to the Project Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender securing construction financing with regard to construction on the Project Property or a permanent "take-out" loan held by an Institutional Lender with regard to such construction financing. For the purpose of this paragraph (E), "Control" shall include the power to direct the management and policies of an individual or entity (i) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (ii) through the right to designate or elect not less than a majority of the

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
25	12/22/2020	12/22/2040	Grantee, on behalf of itself, its successors and assigns, covenants that for a period of twenty (20) years from the date of Substantial Completion of the Building on the Property, the Property and any improvements thereon, including the Building, shall be used for commercial offices and as follows: for five (5) years from the date of Substantial Completion of the Building, 20% of the rentable square feet of the Building (and any replacement building) shall be used for the following medical uses and in accordance with the Zoning Resolution, as it may be amended: mini clinic, physician practices, wellness centers, rehabilitation facilities, other retail out-patient care, urgent care clinic, ambulatory care center, research facilities and laboratories, medical trade schools, administrative offices for home health care providers (collectively "Medical Uses"); and for no other purposes, except with the prior written approval of Grantor. In the event that after three (3) years from Substantial Completion of the Building on the Property, the Grantee, after using its best efforts to lease the Property for Medical Uses as set forth above, has been unable to procure such leases for 20% of the rentable square feet of the Building, then Grantee may petition the Grantor, or its successor's or assigns for a education and/or waiver of the Medical Use requirement. Grantee's petition shall include any and all evidence of its marketing campaigns to procure tenants, any letters of intent that were issued but did not result in a lease, along with an explanation as to why each lease was not signed following issuance of a letter of intent, evidence of the costs and expenses incurred by Grantee in connection with the Property, and any other matters reasonably requested by Grantor. If Grantor determines that the Medical Use requirement is not possible to achieve, then Grantor may, in its reasonable discretion, waive or reduce the Medical Use requirement.	12/22/2020	12/22/2025	Grantee, on behalf of itself, its successors and assigns, covenants that for a period of five (5) years from the date of Substantial Completion, it shall not convey the Property (or any improvements thereon) or any interest in either, except with the prior written approval of Grantor. Grantee, its successors and assigns, may not convey the Property (or any improvements thereon) or any interest in either at any time until the Building is Substantially Complete. In addition to the foregoing, any additional member in Grantee, and any change in the interest of any member of Grantee in Grantee, must be approved in writing by Grantor.
26	10/28/2019	6/30/2031	Grantee, on behalf of itself, its successors and assigns, covenants that following Substantial Completion of the Construction, to use the Property only for use as commercial office building(s), which may include retail and parking facilities, and arts and cultural spaces, in each case, all uses incidental thereto, for a period of fifteen (15) years from the date hereof. If Grantee transfers title to, or a leasehold interest in, the Property to New York City Industrial Development Agency ("IDA") in connection with obtaining financial assistance, Grantee, on behalf of itself and Grantee's successors, covenants that, so long as it or its successor leases the Property from or to IDA or a successor agency, Grantee or Grantee's successor will be bound by and will complete the Construction required by this paragraph as if Grantee or Grantee's successor had retained title to, and had not granted a leasehold interest in, the Property. Grantor will not require that IDA or a successor agency do such Construction or have recourse against IDA or a successor agency in connection therewith. The above restrictions and covenants in this paragraph shall run with the land.	6/30/2016	6/30/2031	Stabilization and Substantial Completion of the Building, (A) it shall not convey all or any part of the Property (or any improvements thereon) except (i) to an entity in which Tishman Speyer Crown Equities, L.L.C. (“TSCE”) or an entity controlled by TSCE (x) holds at least ten percent (10%) of the stock, capital, membership, or partnership interest, or other equity interests, and (y) is the managing member or general partner (subject to customary major decision rights of the other members or partners), or (ii) with the prior written approval of Grantor, or (iii) to IDA in connection with financial assistance provided by IDA to Grantee in connection with Grantee’s purchase of the Property and/or construction/rehabilitation of the building space required hereby to be constructed/rehabilitated on the Property, and (B) it shall not admit a new partner or member in Grantee or change the interest of any partner or member of Grantee, except (i) if, following such admission or change, as applicable, an entity controlled by TSCE (x) continues to hold at least ten percent (10%) of the stock, capital, membership, or partnership interest, or other equity interests in Grantee, and (y) remains the managing member or general partner of Grantee (subject to customary major decision rights of the other members or partners), provided that if such admission or change is made pursuant to that certain Limited Partnership Agreement of LIC Site B-1 JV Holdings, L.P. ("JV Holdings"), same shall not be a violation of this clause (B) if LIC Gotham (US) Inc. ("LICG") or an affiliate of LICG controlled by LICG becomes the managing member or general partner of JV Holdings, and LICG or an affiliate of LICG controlled by LICG continues to hold at least sixty-four percent (64%) of the stock, capital, membership, or partnership interest, or other equity interests in JV Holdings or (ii) with the prior written approval of Grantor. The above restrictions and covenants in this paragraph (the "Pre-Substantial Completion and Stabilization Transfer Restrictions") shall run with the land. The Pre-Substantial Completion and Stabilization Transfer Restrictions shall not prohibit, or apply to, the granting of, or a foreclosure sale or a transfer in lieu of foreclosure under, a mortgage held by an institutional lender securing financing with regard to the purchase of the Property by

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
27	12/26/2018	5/19/2071	Grantee, on behalf of itself, its heirs, successors and assigns, covenants that: (i) for the term required by the Regulatory Agreement as may be amended, Residential Space shall be used for affordable housing in accordance with the terms of thereof, and for no other purposes, except with the prior written approval of Grantor; (ii) for a period commencing on the date hereof and concluding fifty (50) years from the date of Completion of Construction (the "Market Use Restriction Period"), the New Flatbush Caton Market shall be used as a retail vendor market including incubator space, primarily for small business vendors, in accordance with the terms of the New Flatbush Caton Market Operating Reserve Agreement, Flatbush Caton Market Operations Manual and Vendor Relocation and License Agreement (Existing Vendor), as may be amended from time to time provided it is approved by Grantor. For the term of the Market Use Restriction Period, Grantor shall have the right to review and approve agreements between Grantee and the Market User and vendors and Market User, including but not limited to any modifications and any sub-agreements between the Market User and market vendors; (iii) for a period of fifty (50) years from the date of Completion of Conveyance, the Community Facility shall be used by a nonprofit organization as a community facility as defined in the Zoning Resolution, and for no other purposes, except with the prior written approval of Grantor; (iv) until Completion of Relocation, Grantee shall comply with all aspects of the temporary relocation of the vendors in the Flatbush Caton Market Operations Manual and the Vendor Relocation and License Agreement (Existing Vendor); and (v) for a period of thirty (30) years from the date of Completion of Construction, the Commercial Space shall be used in connection with non-residential business operations and for no other purposes, except with the prior written approval of Grantor. For the purposes of this deed, "Market User" shall mean operator of the Flatbush Caton Market and New Flatbush Caton Market as approved by Grantor. All of the above use requirements in this paragraph shall remain regardless of any foreclosure sale or transfer and shall run with the land.	6/19/2019	6/19/2056	seven (7) years after the date of Completion of Construction ("Transfer Restriction Period"), subject to Section III(D), it shall not convey nor allow the conveyance of the Property (or any improvements thereon) or any interest in either, except (i) to allow for the delivery of the Community Facility to the Community User, (ii) residential leases for individual residential units, (iii) retail leases, (iv) as part of a bona fide sale of Grantee's entire business, (v) mortgages and Pledges to Institutional Lenders and any assignment or transfer arising by virtue of, or following, the exercise of such Institutional Lender's rights under such mortgages and Pledges, provided that the assignee or transferee is a Permitted Developer, and/or (vi) with the prior written approval of Grantor; provided, however, that Grantee, its heirs, successors and assigns may not convey the Property (or any improvements thereon) or any interest in either at any time until the Building, pursuant to the deed, has been Completed, except with the prior written approval of Grantor. No membership interest in Community User and/or Market User or their respective members may be sold, assigned or otherwise transferred, no additional membership interests may be added, and Community User and Market User shall not sell, transfer or assign its controlling interest or an interest that would change its capacity to direct the business policies or day-to-day management, without the prior written consent of Grantor during the Transfer Restriction Period, provided however, that a violation of this provision by the Community User shall not be a default by Grantee. In all instances of transfer, written notice shall be given to Grantor. For the purposes of this deed, "Pledge(s)" shall mean a pledge of membership interest in BRP Caton Flats LLC as collateral for the construction financing with regard to the construction on the Property, held by the Institutional Lender on the date hereof. (B) Until the date that is thirty (30) years from the date of Completion of Conveyance, (i) the Community User shall not convey the Community Facility, any interest therein or a portion thereof and (ii) no membership interest of Community User or its member may be sold, assigned or otherwise transferred, nor may any additional membership interest in Community User be issued
28	12/31/2018	12/31/2048	of (a) thirty (30) years from the date hereof, or (b) the expiration of the Urban Renewal Plan, whichever is later, the Premises and any improvements thereon shall be operated in accordance with the Urban Renewal Plan. (2) Grantee, on behalf of itself, its successors and assigns, covenants that following the Completion Date, the Premises and any improvements thereon shall be operated, maintain, and used for the purposes described in Section A(3) of the Deed and in conformance with the term and purposes described in the Land Disposition Agreement dated the 31st day of December, 2018 between the City and Grantor, as sponsor, and assigned to and assumed by Grantee, on the date hereof ("LDA"), and that certain regulatory agreement by and among Grantee, Beneficial Owner, LIHTC LLC, Moderate LLC, the New York City Housing Development Corporation ("HDC") and HPD of even date herewith (the "Regulatory Agreement" and together with the LDA, the Approved Plans, and this Deed, referred to herein as the "Project Documents"). In the event of a conflict between the Project Documents, the terms of this Deed shall govern the Community Facility, the Public Open Space and the Local Retail. (3) Local Retail Uses. (a) A Local Business store size may range from no less than 300 rentable square feet to no greater than 6,000 rentable square feet. Grantee agrees to give primary preference to a Local Business from Manhattan Community Board #11. Local Retail rent shall be discounted by fifty percent (50%) from the then current market rent for businesses operating in comparable space in Manhattan Community Board #11, or such other rents as may be approved by Grantor ("LB Retail Rent"). Notwithstanding the foregoing, if current market rent for businesses operating in comparable space in Manhattan Community Board #11 is less than Ninety-Six Dollars ($96) triple net per square foot annually, Grantee may offer the Local Retail at a LB Retail Rent of Forty Eight Dollars ($48) triple net per square foot annually, escalated annually from the date of this Deed to the date of rent commencement for such Local Retail lease by the lesser of (x) three percent (3%) per annum or (y) the increase in the Consumer Price Index to all Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor, New York, NY Northeastern NJ Area, or any successor index thereto. (b) If all or any portion of the Local Retail is (i) vacant for sixty (60) days or more, or (ii) Grantee demonstrates that such Local Retail space has been actively marketed to Local	12/31/2018	3/4/2029	(C) Transfer. Grantee, on behalf of itself, its successors and assigns, covenants that, without the prior written approval of Grantor and the City (which approval shall not be unreasonably withheld, delayed or conditioned), prior to the Completion Date and for a period of seven (7) years following the Completion Date, it shall not (i) convey the Premises (or any improvements thereon) or any interest in either, nor (ii) permit any membership interest in Grantee to be sold, assigned or otherwise transferred, nor (iii) permit any additional membership interest in Grantee to be issued, nor (iv) take any action or enter into any transaction which would involve or result in a material change in the management of Grantee, nor (iv) take any action or enter into any transaction that would involve or result in a material change in the identity of the entities in control of Grantee. The foregoing restrictions of transfer shall not apply to entering into any master leases that permit the use or occupancy of all or a portion of the Premises and/or leases with tenants in the ordinary course of business or establishing the condominium units as contemplated herein. The above restrictions and covenants in this Section (C) shall not prohibit, or apply to, a Recognized Lender or its nominee obtaining title to the Premises, or a portion thereof, as a result of a foreclosure sale or a transferrin lieu of foreclosure under a mortgage held by a Recognized Lender securing construction financing with regard to such construction financing, or any subsequent refinancing thereof; provided that the assignee or transferee of such Recognized Lender or its nominee is a Permitted Developer (as defined in the Deed). In addition, prior to a foreclosure sale or a transfer in lieu of foreclosure, a Recognized Lender shall release the Community Facility from the lien of its mortgage; and immediately thereafter, Grantee shall convey its interest in the Community Facility to Grantor or its designee by deed and for no consideration.

No.	Usage Restriction Begin Date	Usage Restriction End Date	Usage Restriction	Conveyance Restriction Begin Date	Conveyance Restriction End Date	Conveyance Restriction
29	7/16/2022	7/16/2032	(10) years from the date of Substantial Completion (the "Initial Use Period"), the Property shall be used in connection with the non-residential business operations and corporate purposes of Bartlett Dairy, Inc. (the "User") and/or its affiliates set forth herein, primarily in connection with User's and/or such affiliates' business operations of its fluid milk and food distribution business and for no other purposes, except with the prior written approval of Grantor. Affiliates for the purposes of this section shall include: Bartlett Distribution Services, LLC; Bartlett Rochester, LLC; Farmland Fresh Dairies, LLC; Mercato Transport, LLC; The Big Squeeze (NY), Inc.; and Watchmen Services, Inc. For a period of fifteen (15) years from the conclusion of the Initial Use Period (the "Second Use Period"), the Building and Property shall be used in accordance with industrial warehouse or distribution uses permitted under Use Groups 7, II, 16 and 17 as such use groups are defined and construed in the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time, as such use groups existed as of the date of this Indenture, but in no event shall be used for self-storage uses otherwise permitted under Use Group 16D or for any other purposes, except with the prior written approval of Grantor. The use restrictions and covenants in the entirety of this Section (B) shall run with the land. (1) Notwithstanding the foregoing, in the event of a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined in the Deed) securing construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing during the Initial Use Period, the above restrictions to the Property in the first two sentences of paragraph (B) above, shall be deemed modified to require that after such foreclosure sale or a transfer in lieu of foreclosure, for the remainder of the Initial Use Period, the Building and Property shall be used in accordance with industrial warehouse or distribution uses permitted under Use Groups 7, 11, 16 and 17 as such use groups are defined and construed in the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time, as such use groups existed as of the date of this Indenture, but in no event shall be used for self-storage uses otherwise permitted under Use Group 16D or for any other purposes, except with the prior written approval of Grantor. For the avoidance of doubt, the restrictions in paragraph (b) that apply to the Second	7/16/2020	7/16/2027	period commencing on the date of this Indenture and expiring on the date of Substantial Completion (the "PreCompletion Transfer Restriction Period"), it shall not convey the Property (or any improvements thereon) or any interest in either the Grantee or the Property, except with the prior written approval of Grantor; and management and control of Grantee shall remain with Thomas A. Malave, Kenneth Malave, Michael Malave and Donald Malave (the "Malave Brothers") as members of the User. The Malave Brothers shall maintain at least seventy-five (75%) percent of the membership interests in both Grantee and User, and Thomas A. Malave shall maintain at least a ten (10%) percent membership interest in the User, unless in the event of Thomas A. Malave's death or disability, or removal by investor members of the User for cause. In the event that Thomas A. Malave is removed for any of the reasons described above, then User shall have the right, to be exercised within thirty (30) days after the removal to propose a replacement manager (the "Replacement Manager") for Grantor's approval, with Grantor's approval not to be unreasonably withheld, delayed or conditioned. (2) Grantee, on behalf of itself, its successors and, assigns, covenants that, for a period commencing on the date of Substantial Completion and five (5) years from the date of Substantial Completion (the "Post-Completion Transfer Restriction Period"), it shall not convey the Property (or any improvements thereon) or any interest in the Property, except with the prior written approval of Grantor. (3) The restrictions and covenants in this Section (C) shall run with the land. The restrictions and covenants in this Section (C) shall not prohibit, or apply to, a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (as defined herein) and shall not apply to the Property after a foreclosure sale or a transfer in lieu of foreclosure under a mortgage held by an Institutional Lender (hereinafter defined) securing construction financing with regard to construction on the Property or a permanent "take-out" loan with regard to such construction financing. For purposes of this Indenture, an "Institutional Lender" means (a) any savings bank, savings and loan association, commercial bank or trust company (whether acting individually or in a

Leases List

Lease No.	BUILDING NAME	LEASED	MRI Lease ID	Revenue 7/24 - 6/25	Address
1	Willets Point	Willets Point Phase I Owner, LLC	C03060-001944	$ 24,000.00	126-01 Roosevelt Avenue, 126-43 39th Avenue, 126-55 39th Avenue, Queens NY 11368
2	Battery Maritime Building	10 South Street LLC	M04410-001484	$ 2,895,939.58	10 South Street, Battery Maritime Building, New York, NY 10004
3	SBMT	SSBMT, LLC	M01700-001589	$ 8,296,969.18	81 39th Street, Brooklyn, NY 11232
4	Alexandria Center	ARE - East River Science Park, LLC	D02000-ARE01	$ 2,843,238.90	450 East 29th Street, New York, NY 10016
5	200-240 Food Center Drive	Dairyland HP LLC	M21000-DAIRY1	$ 2,343,292.47	200-240 Food Center Drive, Bronx, NY 10474
6	One Dekalb Avenue	Albee Development, LLC	C05500-ALBB1	$ 281,705.07	One Dekalb Avenue, Brooklyn, NY
7	Astoria Studios Bldgs 1-4, 13	American Museum of Moving Image	C02800-AMMI01	$ -	36-01 35th Avenue, Astoria, NY 11106
8	550 Food Center Drive	Anheuser-Busch distributors of NY, Inc.	M21350-000510	$ 818,110.44	550 Food Center Drive, Bronx NY 10474
9	Atlantic Center Mall	Atlantic Center Fort Greene	C01000-ATLA01	$ 1,217,016.12	Atlantic Center Mall, South Elliott Place & Fort, Brooklyn, NY
10	155 Food Center Drive	Baldor Specialty Foods, Inc.	M20900-BSFI01	$ 3,370,518.96	155 Food Center Drive, Bronx, NY 10474
11	Pier 36 East River	Basketball City USA, LLC	M04560-BACI01	$ 447,757.00	Pier 36 and East River, New York, NY 10038
12	Bridgemarket	Maddd 550 Broad LLC	C04200-BRID01	$ 841,201.68	Bridgemarket, 2nd Avenue & Queensboro Bridge, NY
13	Renaissance Plaza	Brooklyn Renaissance Plaza, LLC	C00600-RENA01	$ 2,165,540.52	350 Jay Street, Brooklyn, NY
14	Renaissance Plaza	Brooklyn Renaissance Plaza, LLC	C00600-RENA02	$ 1,384,076.64	350 Jay Street, Brooklyn, NY
15	Renaissance Plaza	Brooklyn Renaissance Plz-Garage	C00600-RENA04	$ 805,327.40	350 Jay Street, Brooklyn, NY
16	Renaissance Plaza	Brooklyn Renaissance Plz-Hotel	C00600-RENA05	$ 2,038,808.28	350 Jay Street, Brooklyn, NY
17	Renaissance Plaza	Brooklyn Renaissance Plz-Retail	C00600-RENA03	$ 606,704.16	350 Jay Street, Brooklyn, NY
18	Gateway Plaza	BTM Development Partners, LLC	C02150-000490	$ 1,494,677.30	Gateway Plaza, Bronx Terminal Market, Bronx, NY
19	600 Food Center Drive	Citarella Operating LLC	M21400-000188	$ 867,426.08	600 Food Center Drive, Bronx, NY 10474
20	Skyports	Community Environmental Center	M04650-000235	$ -	23rd and the East River, New York, 10010
21	Flatbush Parking Deck	Flatbush Center Parking LLC	C01500-FBCP01	$ 50,417.63	1007 Flatbush Avenue, Brooklyn, NY 11226
22	Flatbush Parking Deck	Flatbush Delaware Holding LLC	C01500-FBDH01	$ 225,000.00	1007 Flatbush Avenue, Brooklyn, NY 11226
23	Nine Metrotech (Flatbush)	Brooklyn NY I SGF, LLC	C00500-FORE01	$ 112,640.04	Nine Metrotech (Flatbush), Brooklyn, NY 11201
24	Two Metrotech (Bridge St)	Forest City Bridge St. Assoc.	C00300-FORE02	$ 4,822,419.38	Two Metrotech Center, Brooklyn NY 11201
25	One Metrotech (Jay Street)	Forest City Jay Street Assoc.	C00200-FORE01	$ 10,518,035.76	One Metrotech Center, Brooklyn NY 11201
26	Nine South Metrotech (Myrtle)	Forest City Myrtle Assoc., LL	C00550-000167	$ 4,694,624.21	Nine South Metrotech (Myrtle), Brooklyn, NY 11201
27	Pierrepont Plaza	Forest City Pierrepont Assoc.	C00100-FORE04	$ 2,950,584.52	159 Pierrepont Street, Brooklyn NY 11201
28	Eleven Metrotech (Tech Place)	Brooklyn NY II SGF, LLC	C00400-FORE03	$ 123,770.13	Eleven Metrotech (Tech Place), Brooklyn, NY 11201
29	13th Avenue Market, Bklyn	BAAM 13th Ave Supermarket LLC	M02500-000214	$ 323,935.00	3910 13th Avenue, Brooklyn, NY 10274
30	Gansevoort Meat Market	Gansevoort Market,Inc.	M22900-000047	$ 2,639,464.00	569 West Street, New York, NY 10014
31	Jamaica Farmer's Market	Greater Jamaica Devt. Corp.	C03400-GREA01	$ 33,083.16	90-04 161st Street, Jamaica, NY 11412
32	Beach 21st Street	Beach 21st Street Limited Partnership	C40001-001637	$ 276.71	1031 Beach Street, Queens, NY 11691
33	355 Food Center Drive	Hunts Point Co-op Market, Inc.	M21100-HUNT04	$ 6,588,022.05	355 Food Center Drive, Bronx, NY 10474
34	NYC Terminal Market	Hunts Point Terminal Produce Coop	M21500-HUNT01	$ 4,450,308.04	37 Terminal Market Center, Bronx, NY 10474
35	Kaufman Astoria Studios	KAS Production Center LLC & New Stage LLC	C03000-001085	$ 222,850.44	34-12 36th Street, Astoria, NY 11106
36	Astoria Studios Bldgs 1-4, 13	Kaufman Astoria Studios	C02800-KAUF01	$ 586,341.88	34-12 36th Street, Astoria, NY 11106
37	400 Food Center Drive	KFI Food Center Dist., Inc.	M21300-KFI001	$ 702,163.32	400 Food Center Drive, Bronx, NY 10474
38	25th Street Pier	La Farge Building Materials, Inc.	M00400-000301	$ 1,524,972.49	25th Street Pier, Brooklyn, NY 11232
39	Logan Bus Parking Lots	Linn-Ann Enterprises, Inc.	C04500-LINN01	$ 204,907.08	97-14 Atlantic Ave, New York, NY 11416
40	Walsam 149 Airport LLC	Walsam 149 Airport LLC	C03700-MPAR01	$ 120,000.00	54-65 48th Street, Jamica, NY 11434
41	Maramont Building	Whitsons Food Service (Bronx), LLC	M20100-MARA01	$ 456,145.38	Maramont Corporation, Bronx, NY 10474
42	Jamaica Center 1	Mattone Group Jamaica Co.,LLC	C03550-000049	$ 256,425.89	One Jamaica Center, Jamaica, NY
43	The Water Club	MDO Development Corp	M04675-000054	$ 25,000.00	East 30th St. East 32nd St, New York, NY
44	Mill Basin Waterfront	Nick's Lobster House	M00300-NICK02	$ 216,832.96	Mill Basin Waterfront, Avenue U, Brooklyn NY
45	Arthur Avenue Market	North Bronx Market, Inc.	M03300-NORT02	$ 183,443.75	2344 Arthur Avenue, Bronx, NY 10410
46	Livingston Plaza	NYC Transit Authority	C00700-TA0001	$ 2,460,159.96	130 Livingston Plaza, Brooklyn, NY 11201
47	Astoria Studios Bldg 6 School	Our World Neighborhood Charter School	C02900-000087	$ 569,539.74	36-12 35th Street, Astoria, NY 11106
48	Pier A	Battery Park City Authority	M04000-BPCA01	$ 1.00	Pier A between Battery Park and Battery Park City, New York, NY
49	Teleport	Port Authority NY & NJ- Teleport	C03900-TELE01	$ 143,176.75	1 Teleport Drive, Suite 301, Staten Island, NY 10311
50	Howland Hook Terminal	Port Authority of NY/NJ - Howland Hook	M06000-PA0001	$ -	3551 Richmond Terrace, Staten Island, NY
51	Pier 79 - Ferry Landing	Port Imperial Ferry Corp., d/b/a NY Waterway	D00100-000306	$ 510,823.72	Pier 79 - Ferry Landing, New York, NY
52	SBMT - 29thStreet Building	Royal Wine Corp.	M01800-ROYA01	$ 839,991.98	SBMT - 29th Street Building, Brooklyn, NY
53	Mill Basin Waterfront	Sea Traveler's Realty Inc.	M00300-SEA001	$ 90,602.92	Mill Basin Waterfront, Avenue U, Brooklyn NY
54	Seaport Associates (97 block)	Seaport Associates	M21600-SOUT01	$ 253,308.51	19 Fulton Street, New York, NY 10038
55	Seaport Marketplace - GGP	South Street Seaport Limited Partnership	M21810-SSSL02	$ 2,255,488.64	19 Fulton Street, New York, NY 10038
56	Seaport- Museum	South Street Seaport Museum	M21820-SOUT02	$ -	207 Front Street, New York, NY 10038
57	Staten Is Minor League Stadium	Staten Island Entertainment LLC	C04000-001700	$ 46,647.67	St. George Station, Staten Island, NY
58	600 Food Center Drive	Sultana Dist. Services,Inc.	M21400-000048	$ 1,292,574.95	600 Food Center Drive, Bronx, NY 10474
59	800 Food Center Drive	The New Fulton Fish Mrkt Coop HP, Inc	M21450-001392	$ 2,099,354.20	800 Food Center Drive, Bronx, NY 10474
60	Audubon	Trustees of Columbia University	D01500-000245	$ 658,150.19	650 West 168th Street #BB07, New York, 10032
61	United Nations Developmt Corp.	United Nations Development Crp	C04100-UNDC01	$ 1,884,786.36	Two United Nations, New York, NY 10017
62	Winking Group, LLC	Winking Group, LLC	C04300-WINK01	$ 376,290.60	75/85 East Broadway, New York, NY
63	Site 1	Times Square Tower Associates LLC	F01000-TSTA01	$ 14,554,078.16	7 Times Square, New York, NY 10036
64	Site 3	3 Times Square Associates	F03000-TMSQ3	$ 7,733,035.58	3 Times Square, New York, NY 10036
65	Site 4	RXR 5TS Owner LLC	F04000-TMESQ5	$ 5,968,514.06	5 Times Square, New York, NY 10036
66	Site 5	The New 42nd Street	F05000-THEAT9	$ 10.00	330 W. 42nd St., New York, NY 10036
67	Site 6	New Amsterdam Theater	F06000-AMST01	$ 2,408,791.85	214 W. 42nd St., New York, NY 10036
68	Site 8E E/R	FC-42nd Street Associates, LP	F08000-RETAIL	$ 8,409,456.65	241 W. 41st St., New York, NY 10036
69	Site 8E HOTEL	TSQ	F08100-SUNSTN	$ 1,383,815.98	241 W. 41st St., New York, NY 10036
70	Site 8S-FC OFFICE	FC Eighth Ave, LLC	F09000-FCEA01	$ 4,865,531.05	620-632 8th Ave, New York, NY 10036
71	Site 8S-FC RETAIL	FC Eighth Ave, LLC	F09100-FCRE01	$ 152,101.25	620-632 8th Ave, New York, NY 10036
72	Site 8S - NYT	620 Eighth NYT - (NY) Limited Partnership	F09200-8SNYT	$ 17,187,985.16	620-632 8th Ave, New York, NY 10036
73	Site 8S - NYT-2	NYT Building Leasing Company, LLC	F09300-000788	$ 24,377.25	620-632 8th Ave, New York, NY 10036
74	Site 12	Four Times Square Associates, LLP	F12000-DURS12	$ 20,694,688.11	4 Times Square, New York, NY 10036
75	Former Loew's Kings Theater	Kings Theatre Redevelopment Company, L.L.C.	C01800-KTRC01	$ -	1027 Flatbush Avenue, Brooklyn, New York 11226
76	Roosevelt Island	Cornell University	C04210-001060	$ 1.00	Block 1373, P/O Lot 20 and P/O Lot 1, New York, New York
77	JFK-Prologis Site	PP Tango NY 1 LLC	C03650-PROLP1	$ 57,434.38	Block 14260, Lot 100, Queens, New York
78	Staten Island Retail	St. George Outlet Development	C04011-RETAIL	$ -	Block 2, Lot 15 (fka p/o Lots 1, 5, 10 and 20 on Block 2), Staten Island, NY
79	Lighthouse Point	5 Bay Street, LLC	C04015-LPML01	$ 85,000.00	5 Bay Street, Staten Island, NY 10301
80	Lighthouse Point	5 Bay Street Phase 1, LLC	C04015-LSVL01	$ 120,000.00	5 Bay Street, Staten Island, NY 10301
81	Lighthouse Point	5 Bay Street Phase 3, LLC	C04015-PH3LLC	$ 180,000.00	5 Bay Street, Staten Island, NY 10301
82	370 Jay Street	New York University	C00650-NYUC01	$ -	370 Jay Street, Brooklyn, NY
83	Coney Island Amphitheater	Seaside Park, LLC	C20400-SSPL01	$ -	3052 West 21st Street, Brooklyn, NY 11224
84	Bronx Point	Bronx Point Housing Fund Development Company Inc	C02140-001670	$ -	Block 2356, Lot 2, Bronx, NY
85	SBMT 2nd Ave Site (29-39th)	1-10 Industry City Associates LLC	M02000-ICAL01	$ 803,791.65	2nd Ave, b/w 35th & 37th St., Brooklyn NY 11232
86	Bedford Union	Bedford Courts I LLC - Commercial	C01250-001553	$ 257,500.00	Bedford Union, Brooklyn, NY 11225
87	Bedford Union	Bedford Courts III LLC - Mixed Residential	C01250-001554	$ 66,168.31	Bedford Union, Brooklyn, NY 11225
88	Bedford Union	Bedford Courts III LLC - Affordable Residential	C01250-001552	$ 1.00	Bedford Union, Brooklyn, NY 11225
89	Edenwald Recreation/YMCA	Young Men's Christan Association	C02160-001506	$ 31,175.36	1250 East 229th Bronx NY 10466
90	Fourteenth & Irving	Fourteenth at Irving, LLC	C04810-001514	$ -	124 East 14th Street, New York, NY 10003
91	Spofford	MHANY Peninsula Local Development Corp.	C30017-001574	$ 10.00	1221 Spofford Avenue Bronx NY 10474
92	25th Street Pier NORTH	Ferrara Brothers	M00500-FERR02	$ 191,609.47	25th Street Pier NORTH, Brooklyn, NY 11232
93	Pier 94	Pier 94 Lease Co	M07100-VRT01	$ 900,000.00	Pier 94, 711 12th Avenue, New York, NY 10019
94	Spofford	Peninsula Building 2, LLC	C30017-001986	$ 50,181.51	Block 2738, Lots 2 & 25, Bronx, NY 10474
95	Spofford	Peninsula Building 1B, LLC	C30017-PNSL1B	$ 25,893.56	1221 Spofford Avenue, Bronx, NY 10474
96	Willets Point	CFG Stadium Group LLC	C03060-002014	$ 263,888.91	Block 1823, Lots 1 &12, Queens, NY
97	SBMT Piers 29-30th Street	SIMS Municipal Recycling of New York LLC	M01600-SIMS02	$ 2,253,645.16	30th Street Pier, South Brooklyn Marine Terminal, Brooklyn, NY, 11232
98	Bathgate Site 2	Perrigo	C02302-001647	$ 2,935,251.01	1625 Bathgate Ave, Bronx, NY 10457
99	Manhattan Cruise Terminal	Ports America	M04900-001323	$ 6,074,793.01	Piers 88/90, NY, NY 10036

The data collected is in compliance with NYC Admin. Code §22-823. This list of leases of City Owned Land consisting of Ground Leases and Net Leases of buildings including revenue for FY25. This list also includes the leased street addresses.

Section 22.1 Discharge of Liens. If Tenant shall fail to cause any mechanic's, laborer's, vendor's, materialman's or similar statutory lien or any public improvement lien to be discharged in accordance with the provisions of Article XVII hereof, and if such lien shall continue for an additional sixty (60) days after notice to Tenant and the applicable cure period provided for in Article XVII, then, unless Tenant has furnished Landlord with security meeting the requirements of Section 17.2 subject to any rights granted to a Recognized Mortgagee under this Lease, Landlord may, but shall not be obligated to, discharge such lien of record by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances.

Section 22.2 Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any reasonable out-of-pocket amounts paid by Landlord pursuant to Section 22.1 hereof, including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed by Tenant within fifteen (15) days of Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article XXII shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 40.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the reasonable out-of-pocket costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
PERMITTED USE; CERTAIN OPERATING COMMITMENTS

Section 23.1 Use and Operating Requirements.

(a) Subject to the provisions herein, Tenant shall use the Premises for the sole purposes of Residential Use, Commercial Use, Community Space Use, Open Space Use, and Accessory Parking, in accordance with Exhibit C, and uses accessory thereto (the "Permitted Uses"). Tenant shall comply with the terms and provisions of the Regulatory Agreements in connection with all such uses and in all other respects. For purposes of this Lease:

"Accessory Parking" means any parking required by the Zoning Resolution.

"Commercial Use" means office use or retail sales and services.

"Community Space Use" means facilities that are available to the general public (which may include a membership requirement, provided that membership is available to the general public on a non-discriminatory basis) for participation, training or practice of physical fitness related activities, the arts (such as without limitation music, dance, painting and sculpting), education, hobbies and crafts, and other similar activities.

"Open Space Use" means open outdoor space ("Open Space") that is accessible to the public, subject to the terms and conditions of the Open Space Restrictive Declaration and the restrictive covenants relating to the Open Space in the Zoning Resolution.

"Residential Use" means dwellings occupied by residential tenants, and excludes transient dwelling. Such use shall be in accordance with the affordability requirements and other provisions of Exhibit C attached hereto and the Regulatory Agreements.

Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Tenant shall make reasonable and good faith efforts to cause each component of the Project to be occupied in accordance with Exhibit C, to the extent applicable.

(b) Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Article XXIII is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article XXIII shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article XXIII (collectively, the "Use and Operating Requirements"), and Tenant shall operate the Project in accordance with the Project Commitments set forth in Exhibit C attached hereto.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises of any subtenant, as applicable, using any portion of the Premises for any such business, use or purpose. The provisions of this Section shall not restrict Tenant's rights to contest any Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

of the Landlord's obligations under this Lease by the Person who acquires the Premises of such deposits and notice thereof to Tenant, Landlord shall be deemed to be released to the extent of the deposits so transferred from all liability with respect thereto and Tenant shall look solely to the Depositary and the new Landlord with respect thereto. Landlord shall promptly deliver to Tenant a copy of the instrument of transfer to the new Landlord. The provisions of this Section shall apply to each successive transfer of such deposits.

Section 5.03. Effect of Termination. If this Lease shall terminate, or the Term shall terminate or expire and a new lease shall not be entered into with a Recognized Mortgagee, all deposits then held by the Depositary, together with the interest, if any, earned thereon shall be applied by Landlord on account of any and all sums due under this Lease and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord on demand.

ARTICLE 6

UTILITIES

Section 6.01. Utility Service to Premises.

(a) Tenant shall perform the Construction Work necessary to establish separate metering for water, gas, heat and electricity for each of the Premises, the TGI Ferry Premises and the DOT Premises as part of the Tenant Work.

(b) Tenant must obtain and pay all costs of utilities (including installation thereof, if applicable), including all sewer charges and charges for all water, gas, heat and electricity, consumed and used in, or with respect to, the Premises, and Tenant, at its sole cost and expense, shall maintain and repair all meters and procure all permits, approvals and licenses necessary to secure delivery of such utility services. Tenant shall pay any utility charges directly to the companies supplying such utility services all charges therefor, as the same shall become due.

Section 6.02. No Obligation on the Part of Landlord. Landlord shall have no obligation to provide any utility services to the Premises, or any part thereof, and neither the City, nor Landlord nor Apple shall have any responsibility or liability to Tenant or any third party in the event any such utility services are not provided to the Premises, or any part thereof.

ARTICLE 7

USE OF PREMISES

Section 7.01. Permitted Use.

(a) Tenant shall use and occupy the Premises for the construction and the continuous, active and diligent operation of the Project. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given at Landlord's sole and absolute discretion. The Project shall consist of the

following components and shall, except as otherwise expressly provided in Article 16, be constructed in accordance with the Approved Plans and Specifications:

(i) a hotel consisting of up to 70 rooms, amenity space on the second floor mezzanine of the Building and a lobby area on the first floor (collectively, the "**Hotel**");

(ii) a restaurant located on the fifth floor and roof deck of the Building (the "**Restaurant**");

(iii) a hall on the second floor of the Building, the loggia along South Street, and an at grade entrance area providing access to the hall and loggia (as more specifically delineated in Exhibit K hereof, the "**Great Hall**"), which will be available to the general public and will comprise a mix of cultural uses, food vendors, restaurants and public seating areas, all in accordance with Section 7.02 hereof;

(iv) a shared waiting area within the ground floor of the Building and access from said waiting area to the DOT Premises, as further depicted in Exhibit J hereto and further described in the Operating Agreement (the "**DOT Waiting Area**"), for use by the public in connection with ferries docking at the DOT Premises and Tenant's invitees; and

(v) a sidewalk area adjacent to the entire South Street façade of the Building that conforms to the East River Esplanade design as set forth in the drawings and specifications included in the contract documents prepared for the construction of the East River Esplanade, including, but not limited to, Section 02780 of the specifications, dated June 7, 2010, forming part of said contract documents, a copy of which section is annexed hereto as Exhibit P, as said contract documents may be modified from time to time and, in any event, to the East River Esplanade sidewalk that is actually installed in the other areas of the East River Esplanade.

(b) As part of the Project, Tenant shall not take any action that would impair the visual corridor in the area surrounding the Building and shall maintain such visual corridor to the extent existing on the Commencement Date in accordance with the Zoning Resolution and in substantial conformity with the drawing number Z-200, labeled "Site Plan" dated August 22, 2008 and last revised October 10, 2008. Tenant agrees that said visual corridor to the extent existing on the Commencement Date shall remain open and unobstructed at all times except for permitted obstructions as provided in Section 62-513 of the Zoning Resolution.

Section 7.02. Operation of the Great Hall.

(a) Great Hall Requirements. The Great Hall shall be available to the general public and will comprise a mix of cultural uses, food vendors, restaurants and public seating areas. Tenant shall operate the Great Hall in accordance with the requirements of Exhibit N hereto (the "**Great Hall Requirements**").

(b) Great Hall Liquidated Damages. Tenant acknowledges that Tenant's failure to comply with the Great Hall Requirements will cause loss and damage to Landlord, the precise extent of which is difficult to ascertain in monetary terms. For this reason, Landlord and Tenant desire to provide fair and reasonable compensation to Landlord for such losses, which compensation shall not be construed as a penalty. It is therefore agreed that if Tenant fails to

comply with the Great Hall Requirements, then there shall accrue to Landlord, subject to the provisions of Section 29.02(e) (Remedies for Events of Default) liquidated damages as follows (the "**Great Hall Liquidated Damages**"):

(i) If at any time during the Term Tenant shall fail to comply with any provisions of the Great Hall Requirements, other than those with regard to hiring a full-time "cultural coordinator" (as described in the Great Hall Requirements), Landlord shall notify Tenant in writing of such Default (each such notice shall be referred to herein as a "**Great Hall Default Notice**"). Upon receiving the fourth (4th) Great Hall Default Notice, Tenant shall pay Landlord the amount of Ten Thousand Dollars ($10,000). Upon receiving fifth (5th) Great Hall Default Notice, Tenant shall pay Landlord an additional amount of Twenty Thousand Dollars ($20,000). Upon receiving the sixth (6th) Great Hall Default Notice, Tenant shall pay Landlord an additional amount of Forty Thousand Dollars ($40,000). Upon receiving the seventh (7th) Great Hall Default Notices, Tenant shall pay Landlord an additional amount of Eighty Thousand Dollars ($80,000). Upon receiving the eighth (8th) Great Hall Default Notice, Tenant shall pay Landlord an additional amount of One Hundred Thousand Dollars ($100,000). Tenant shall pay an additional amount of One Hundred Thousand Dollars ($100,000) upon receiving any subsequent Great Hall Default Notice. If Tenant complies with all the provisions of the Great Hall Requirements for a period of nine (9) calendar months after the date of any Great Hall Default Notice (the "**Performance Period**"), then any Great Hall Default Notice sent by Landlord after the completion of the Performance Period shall be deemed to be the first Great Hall Default Notice, provided that Tenant has paid all Great Hall Liquidated Damages previously incurred.

(ii) If at any time during the Term the position of full-time "cultural coordinator," as described in the Great Hall Requirements, remains unfilled for a period of six (6) months or more, then Landlord shall notify Tenant of such Default (each such notice shall be referred to herein as a "**Cultural Coordinator Default Notice**"). If such Default is not cured within one (1) month after the date of the Cultural Coordinator Default Notice, Tenant shall pay to Landlord the amount of Ten Thousand Dollars ($10,000). If such Default is not cured within two (2) months after receipt of said Cultural Coordinator Default Notice, Tenant shall pay Landlord an additional amount of Twenty Thousand Dollars ($20,000). If such Default is not cured within three (3) months after receipt of said Cultural Coordinator Default Notice, Tenant shall pay Landlord an additional amount of Forty Thousand Dollars ($40,000). If such Default is not cured within four (4) months after receipt of said Cultural Coordinator Default Notice, Tenant shall pay Landlord an additional amount of Eighty Thousand Dollars ($80,000). If such Default is not cured within five (5) months or more after receipt of said Cultural Coordinator Default Notice, Tenant shall pay Landlord an additional amount of One Hundred Thousand Dollars ($100,000) for each month that said Default continues. If at any time after receiving a Cultural Coordinator Default Notice, a full-time "cultural coordinator" is hired, but the employment of said "cultural coordinator" is subsequently terminated for a reason that is arbitrary and not in good-faith, then Tenant shall be determined to be in violation of the Great Hall Requirements from the date of the last Cultural Coordinator Default Notice received.

(iii) Commencing in the eleventh Lease Year, Great Hall Liquidated Damages amounts shall be increased annually to an amount equal to the product obtained by multiplying the amount of Great Hall Liquidated Damages in the immediately preceding Lease

Year by the sum of one and the CPI Increase. All Great Hall Liquidated Damages payable shall constitute Rental hereunder.

Section 7.03. Signage. Tenant shall not install or use, or permit the installation or use of, any advertising devices or signs on the Property or any part thereof without the prior written consent of Landlord in its sole discretion; provided, however, that if Tenant's signage is approved by the LPC, Landlord's consent shall not be unreasonably withheld.

Section 7.04. Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall, at its sole cost and expense, obtain and maintain in full force and effect during the Term any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and Tenant's use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 7.05. Unlawful Use. Tenant shall not use or occupy the Premises, and shall use commercially reasonable efforts not to permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any subtenant using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing that would violate requirements of the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 7.06. No Representations or Warranty by Landlord.

(a) Neither Landlord, the City nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, the City nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, Tenant agrees that (i) neither Landlord, the City nor Apple, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Landlord agrees that Tenant shall have the right and option to terminate this Lease.

Section 7.07. Reconfiguration of Hotel. Notwithstanding anything to the contrary contained in this Lease, subject to Requirements, Tenant shall be permitted at any time following Final Completion of the Project to reconfigure or otherwise change the layout of the space within the Hotel, provided that the use of the DOT Waiting Area and access thereto is not materially adversely affected thereby.

ARTICLE 8

EASEMENTS

Section 8.01. Municipal Easement. Landlord hereby reserves for itself and the City, and their respective officers, employees, agents, servants, representatives and invitees, an easement for ingress and egress to, from and over the Premises for the following purposes: (i) to inspect, maintain, replace and repair existing municipal facilities located within the Premises, if any; (ii) to maintain its fire communications facilities, sewers, water mains and street sub-surface below the Premises, if any; and (iii) to access the bulkhead area and the Pier that are part of the Premises or adjacent to the Premises. Access to the aforesaid easement areas shall be at reasonable times and upon reasonable prior notice (except in the case of any emergency).

Section 8.02. Construction Easements. The City, Landlord and Lease Administrator and their respective designees shall have the right at all reasonable times upon reasonable prior notice (except in the case of an emergency) to enter upon the Premises with workers, materials and equipment to construct, reconstruct, lay, relay, maintain, operate and inspect the City's, Landlord's and/or Lease Administrator's facilities in or adjacent to the Premises. Landlord and Lease Administrator shall use reasonable efforts to perform said activities during reasonable times and upon reasonable prior notice (except in the case of an emergency). The easement reserved hereby is in addition to any other easement, right-of-way or other right that constitutes a Title Matter as described in Exhibit I hereto.

Section 8.03. Interference. Neither Landlord's nor Lease Administrator's entry onto or permitted use of the Premises shall materially interfere with Tenant's or a Subtenant's use of the Premises pursuant to this Lease and Landlord shall use commercially reasonable efforts to minimize interference with Tenant's use of and operations at the Premises in connection with its exercise of the rights conferred under Sections 8.01 and 8.02.

Section 8.04. TGI Ferry and DOT Premises Easements. The leasehold estate created by this Lease is subject to an easement, in common with others, hereby reserved for the benefit of the City, its licensees, tenants and subtenants at the Property, and their respective employees, agents, contractors, guests, customers, licensees and invitees, for access, ingress and egress to and from the TGI Ferry Premises and the DOT Premises by means of, among other facilities, doorways, entrances, exits, lobbies, stairways, corridors and elevators within or appurtenant to the Premises.

Section 8.05. DOT Waiting Area Easement. The leasehold estate created by this Lease is subject to an easement, hereby reserved for the benefit of the City, its tenants, subtenants and licensees at the Property, and their respective employees, agents, contractors, guests, customers, licensees and invitees, for the use of the DOT Waiting Area and for access,

ARTICLE 23
PERMITTED AND PROHIBITED USES; SPECIAL USE REQUIREMENTS

Section 23.1 Use and Operating Requirements; Draw Down on Security Deposit.

(a) Subject to the provisions herein, Tenant shall use and occupy the Premises, or cause the Premises to be used and occupied, as provided in this Lease for the sole purpose of constructing and operating, pursuant to the Zoning Resolution, a maritime facility consisting of Subleased space to various commercial users for such maritime purposes, and purposes and uses ancillary and incidental to such maritime purposes, including dry bulk and break bulk stevedoring; vehicle and wheeled equipment import and/or export utilizing maritime transport; waterborne freight warehousing and distribution; maritime freight transload to and from truck and rail; maritime construction; "special project" cargo, that is, the waterborne movement of oversize or heavy cargo; maritime support services; layberthing and dockside repair of industrial and commercial vessels; other industrial maritime dependent uses that can take advantage of the site's waterside location; and ancillary office and parking with respect to such maritime purposes, as more described in the Project Plan (the "Permitted Use"). In furtherance of, and not in limitation of, the foregoing, except as expressly provided for in the Lease, Tenant shall use and operate the Premises continuously and without interruption in accordance with the Project Plan. Tenant shall not use the Premises, or permit the Premises to be used, for any purpose other than the Permitted Use, except with the prior written approval of Landlord, to be given at Landlord's sole and absolute discretion.

(b) Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Article 23 is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article 23, including without limitation, operating the Project in accordance with the Project Commitments set forth in Exhibit I attached hereto.

(c) Tenant agrees to meet certain performance obligations, detailed in Exhibit I attached hereto, as measured by Metrics.

Section 23.2 Prohibited Uses.

(a) Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, in such manner as may make void or voidable any insurance then in force with respect to the Premises, or in violation of any of the terms of the Master Lease. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section

23.1 or Article 16 hereof. The provisions of this Section 23.2 shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements. For the sake of clarity, Tenant shall not use, occupy or Sublease the Premises for: (a) any use that is not primarily industrial or commercial maritime use; (b) passenger, ferry, or other service open to the public; (c) hazardous or noxious bulk transfer facilities; (d) tipping of municipal solid waste (MSW); or (e) any non-maritime uses, or uses ancillary or incidental thereto.

Section 23.3 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 23.4 No Representations or Warranty by Landlord.

(a) Neither Landlord nor the City has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord nor the City has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor the City, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and the City, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 20 hereof.

Section 23.5 Living Wage/Prevailing Wage.

(a) Tenant acknowledges and agrees, on behalf of itself and each of its Site Affiliates, that Tenant has received "financial assistance" as defined in the LW Law and agrees that it is a "covered developer" under and as defined in the Prevailing Wage Law. Tenant agrees to comply with all applicable requirements of the LW Law and the Prevailing Wage Law. Tenant acknowledges that the terms and conditions set forth in this Section 23.5(a) are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014.

(b) The following capitalized terms shall have the respective meanings specified below for purposes hereof.

"Affiliate" means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with such given Person.

"Asserted Cure" has the meaning specified in Section 23.5(k)(i).

"Asserted LW Violation" has the meaning specified in Section 23.5 (k)(i).

"Comptroller" means the Comptroller of The City of New York or his or her designee.

"Concessionaire" means a Person that has been granted the right by Tenant, an Affiliate of Tenant or any tenant, subtenant, leaseholder or subleaseholder of Tenant or of an Affiliate of Tenant to operate at the Premises for the primary purpose of selling goods or services to natural persons at the Premises.

"Control" or "Controls", including the related terms "Controlled by" and "under common Control with", means the power to direct the management and policies of a Person (a) through the ownership, directly or indirectly, of not less than a majority of its voting equity, (b) through the right to designate or elect not less than a majority of the members of its board of directors, board of managers, board of trustees or other governing body, or (c) by contract or otherwise.

"Covered Counterparty" means a Covered Employer whose Specified Contract is directly with Tenant or one of its Site Affiliates to lease, occupy, operate or perform work at the Premises.

"Covered Employer" means any of the following Persons: (a) Tenant, (b) a Site Affiliate, (c) a tenant, subtenant, leaseholder or subleaseholder of Tenant or of an Affiliate of Tenant that leases any portion of the Premises (or an Affiliate of any such tenant, subtenant, leaseholder or subleaseholder if such Affiliate has one or more direct Site Employees), (d) a Concessionaire that operates on any portion of the Premises, and (e) a Person that contracts or subcontracts with any Covered Employer described in clauses (a), (b), (c) or (d) above to perform work for a period of more than ninety days on any portion of the Premises, including temporary services or staffing agencies, food service contractors, and other on-site service contractors; *provided, however*, that the term "Covered Employer" shall not include (i) a Person of the type described in Section 6-134(d)(2), (3), (4) or (5) of the New York City Administrative Code, (ii) a Person that has annual consolidated gross revenues that are less than the Small Business Cap unless the revenues of the Person are included in the consolidated gross revenues of a Person having annual consolidated gross revenues that are more than the Small Business Cap, in each case calculated based on the fiscal year preceding the fiscal year in which the determination is being made, and in each calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Premises if residential units comprise more than 75% of the total Premises area and all of the residential units are subject to rent regulation, (iv) any

otherwise covered Person that the Landlord has determined (in its sole and absolute discretion) in writing to be exempt on the basis that it works significantly with a Qualified Workforce Program, (v) a Person whose Site Employees all are paid wages determined pursuant to a collective bargaining or labor agreement, (vi) a Person that is a "building services contractor" (as defined in the LW Law) so long as such Person is paying its "building service employees" (as defined in the Prevailing Wage Law) no less than the applicable "prevailing wage" (as defined in the Prevailing Wage Law), or (vii) a Person exempted by a Deputy Mayor of the City of New York in accordance with the Mayor's Executive Order No. 7 dated September 30, 2014.

"DCA" means the Department of Consumer Affairs of the City of New York, acting as the designee of the Mayor of The City of New York, or such other agency or designee that the Mayor of The City of New York may designate from time to time.

"LW" has the same meaning as the term "living wage" as defined in Section 6-134(b)(9) of the New York City Administrative Code and shall be adjusted annually in accordance therewith, except that as of April 1, 2015, the "living wage rate" component of the LW shall be eleven dollars and sixty-five cents per hour ($11.65/hour) and the "health benefits supplement rate" component of the LW shall be one dollar and sixty-five cents per hour ($1.65/hour). The annual adjustments to the "living wage rate" and "health benefits supplement rate" will be announced on or around January 1 of each year by the DCA and will go into effect on April 1 of such year.

"LW Agreement" means, with respect to any Covered Counterparty, an enforceable agreement in the form attached hereto as Exhibit L (except only with such changes as are necessary to make such Covered Counterparty the obligor thereunder).

"LW Agreement Delivery Date" means, with respect to any Covered Counterparty, the latest of (a) the effective date of such Covered Counterparty's Specified Contract, (b) the date that such Covered Counterparty becomes a Covered Employer at the Premises and (c) the date of this Lease.

"LW Law" means the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

"LW Term" means the period commencing on the later to occur of the Commencement Date or the Effective Date and ending on the later to occur of (a) the date on which Tenant is no longer receiving financial assistance under this Lease or (b) the date that is ten years after the later to occur of the Commencement Date or the Effective Date.

"LW Violation Final Determination" has the meaning specified in Section 23.5 (k)(i)(1), Section 23.5 (k)(i)(2)(A) or Section 23.5 (k)(i)(2)(B), as applicable.

"LW Violation Initial Determination" has the meaning specified in Section 23.5 (k)(i)(2).

"LW Violation Notice" has the meaning specified in Section 23.5 (k)(i).

"LW Violation Threshold" means $100,000 multiplied by 1.03n, where "n" is the number of full years that have elapsed since January 1, 2015.

"Owed Interest" means the interest accruing on Owed Monies, which interest shall accrue from the relevant date(s) of underpayment to the date that the Owed Monies are paid, at a rate equal to the interest rate then in effect as prescribed by the superintendent of banks pursuant to Section 14-a of the New York State Banking Law, but in any event at a rate no less than six percent per year.

"Owed Monies" means, as the context shall require, either (a) the total deficiency of LW required to be paid by Tenant or a Site Affiliate in accordance with this Section 23.5 to Tenant's or its Site Affiliate's (as applicable) direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis; or (b) if Tenant or its Site Affiliate failed to obtain a LW Agreement from a Covered Counterparty as required under Section 23.5(f) below, the total deficiency of LW that would have been required to be paid under such Covered Counterparty's LW Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis, during the period commencing on the LW Agreement Delivery Date applicable to such Covered Counterparty and ending immediately prior to the execution and delivery by such Covered Counterparty of its LW Agreement (if applicable).

"Prevailing Wage Law" means Section 6-130 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

"Qualified Workforce Program" means a training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ populations and that has been determined to be a Qualified Workforce Program by the Director of the Mayor's Office of Workforce Development.

"Site Affiliates" means, collectively, all Affiliates of Tenant that lease, occupy, operate or perform work at the Premises and that have one or more direct Site Employees.

"Site Employee" means, with respect to any Covered Employer, any natural person who works at the Premises and who is employed by, or contracted or subcontracted to work for, such Covered Employer, including all employees, independent contractors, contingent workers or contracted workers (including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity) that are performing work on a full-time, part-time, temporary or seasonal basis; provided that the term "Site Employee" shall not include any natural person who works less than seventeen and a half (17.5) hours in any consecutive seven day period at the Premises unless the primary work location or home base of such person is at the Premises (for the avoidance of doubt, a natural person who works at least seventeen and a half (17.5) hours in any consecutive seven day period at the Premises shall thereafter constitute a Site Employee).

"Small Business Cap" means three million dollars; provided that, beginning in 2015 and each year thereafter, the Small Business Cap shall be adjusted contemporaneously with the adjustment to the "living wage rate" component of the LW using the methodology set forth in Section 6-134(b)(9) of the New York City Administrative Code.

"Specified Contract" means, with respect to any Person, the principal written contract that makes such Person a Covered Employer hereunder.

(c) During the LW Term, if and for so long as Tenant is a Covered Employer, Tenant shall pay each of its direct Site Employees no less than an LW. During the LW Term, Tenant shall cause each of its Site Affiliates that is a Covered Employer to pay their respective Site Employees no less than an LW.

(d) During the LW Term, if and for so long as Tenant is a Covered Employer (or if and for so long as a Site Affiliate is a Covered Employer, as applicable), Tenant shall (or shall cause the applicable Site Affiliate to, as applicable), on or prior to the day on which each direct Site Employee of Tenant or of a Site Affiliate begins work at the Premises, (i) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Section 23.5 in a conspicuous place at the Premises that is readily observable by such direct Site Employee and (ii) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Section 23.5. Such written notice shall also provide a statement advising Site Employees that if they have been paid less than the LW they may notify the Comptroller and request an investigation. Such written notice shall be in English and Spanish.

(e) During the LW Term, if and for so long as Tenant is a Covered Employer (or if and for so long as a Site Affiliate is a Covered Employer, as applicable), Tenant

shall not (or the applicable Site Affiliate shall not, as applicable) take any adverse employment action against any Site Employee for reporting or asserting a violation of this Section 23.5.

(f) During the LW Term, regardless of whether Tenant is a Covered Employer, Tenant shall cause each Covered Counterparty to execute an LW Agreement on or prior to the LW Agreement Delivery Date applicable to such Covered Counterparty. Tenant shall deliver a copy of each Covered Counterparty's LW Agreement to the Landlord, the DCA and the Comptroller at the notice address specified in Article 25 and promptly upon written request. Tenant shall retain copies of each Covered Counterparty's LW Agreement until six (6) years after the expiration or earlier termination of such Covered Counterparty's Specified Contract.

(g) During the LW Term, in the event that an individual with managerial authority at Tenant or at a Site Affiliate receives a written complaint from any Site Employee (or such individual otherwise obtains actual knowledge) that any Site Employee has been paid less than an LW, Tenant shall deliver written notice to the Landlord, the DCA and the Comptroller within 30 days thereof.

(h) Tenant hereby acknowledges and agrees that the Landlord, the DCA and the Comptroller are each intended to be third party beneficiaries of the terms and provisions of this Section 23.5. Tenant hereby acknowledges and agrees that the DCA, the Comptroller and the Landlord shall each have the authority and power to enforce any and all provisions and remedies under this Section 23.5 in accordance with paragraph (k) below. Tenant hereby agrees that the DCA, the Comptroller and the Landlord may, as their sole and exclusive remedy for any violation of Tenant's obligations under this Lease, bring an action for damages (but not in excess of the amounts set forth in paragraph (k) below), injunctive relief or specific performance or any other non-monetary action at law or in equity, in each case subject to the provisions of paragraph (k) below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Tenant (or of any Site Affiliate) under this Section 23.5. The agreements and acknowledgements of Tenant set forth in this Section 23.5 may not be amended, modified or rescinded by Tenant without the prior written consent of the Landlord or the DCA.

(i) No later than 30 days after Tenant's receipt of a written request from the Landlord, the DCA and/or the Comptroller, Tenant shall provide to the Landlord, the DCA and the Comptroller (i) a certification stating that all of the direct Site Employees of Tenant and its Site Affiliates are paid no less than an LW (if such obligation is applicable hereunder) and stating that Tenant and its Site Affiliates are in compliance with this Section 23.5 in all material respects, (ii) a written list of all Covered Counterparties, together with the LW Agreements of such Covered Counterparties, (iii) certified payroll records in respect of the direct Site Employees of Tenant or of any Site Affiliate (if applicable), and/or (iv) any other documents or information reasonably related to the determination of whether Tenant or any Site Affiliate is in compliance with their obligations under this Section 23.5.

(j) Annually, by August 1 of each year during the LW Term, Tenant shall (i) submit to the Landlord a written report in respect of employment, jobs and wages at the Premises as of June 30 of such year, in a form provided by the Landlord to all projects generally,

and (ii) submit to the Landlord and the Comptroller the annual certification required under Section 6-134(f) of the LW Law (if applicable), and (iii) submit to the Landlord and the Comptroller the annual certification required under Section 6-130(c) of the Prevailing Wage Law.

(k) Violations and Remedies.

(i) If a violation of this Section 23.5 shall have been alleged by the Landlord, the DCA and/or the Comptroller, then written notice will be provided to Tenant for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Landlord, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under Section 23.5 (k)(ii), (iii), (iv), (v) and/or (vi) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Tenant's receipt of the LW Violation Notice, Tenant may either:

(1) Perform the Asserted Cure no later than 30 days after its receipt of the LW Violation Notice (in which case a "LW Violation Final Determination" shall be deemed to exist), or

(2) Provide written notice to the Landlord, the DCA and the Comptroller indicating that it is electing to contest the Asserted LW Violation and/or the Asserted Cure, which notice shall be delivered no later than 30 days after its receipt of the LW Violation Notice. Tenant shall bear the burdens of proof and persuasion and shall provide evidence to the DCA no later than 45 days after its receipt of the LW Violation Notice. The DCA shall then, on behalf of the City, the Landlord and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Tenant and deliver to Tenant a written statement of such determination in reasonable detail, which shall include a confirmation or modification of the Asserted LW Violation and Asserted Cure (such statement, a "LW Violation Initial Determination"). Upon Tenant's receipt of the LW Violation Initial Determination, Tenant may either:

Accept the LW Violation Initial Determination and shall perform the Asserted Cure specified in the LW Violation Initial Determination no later than 30 days after its receipt of the LW Violation Initial Determination (after such 30 day period has lapsed, but subject to clause (B) below, the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination"), or

Contest the LW Violation Initial Determination by filing in a court of competent jurisdiction or for an administrative hearing no later than 30 days after its receipt of the LW Violation Initial

Determination, in which case, Tenant's obligation to perform the Asserted Cure shall be stayed pending resolution of the action. If no filing in a court of competent jurisdiction or for an administrative hearing is made to contest the LW Violation Initial Determination within 30 days after Tenant's receipt thereof, then the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination". If such a filing is made, then a "LW Violation Final Determination" will be deemed to exist when the matter has been finally adjudicated. Tenant shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

(ii) For the first LW Violation Final Determination imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, at the direction of the Landlord or the DCA (but not both), (A) Tenant shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Tenant or of a Site Affiliate to such direct Site Employees; and/or (B) in the case of a violation that does not result in monetary damages owed by Tenant, Tenant shall cure, or cause the cure of, such non-monetary violation.

(iii) For the second and any subsequent LW Violation Final Determinations imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, at the direction of the Landlord or the DCA (but not both), (A) Tenant shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Tenant or of a Site Affiliate to such direct Site Employees, and Tenant shall pay fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee; and/or (B) in the case of a violation that does not result in monetary damages owed by Tenant, Tenant shall cure, or cause the cure of, such non-monetary violation.

(iv) For the second and any subsequent LW Violation Final Determinations imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Tenant in respect of the direct Site Employees of Tenant or of a Site Affiliate is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Tenant or any Site Affiliate, then in lieu of the remedies specified in subparagraph (iii) above and at the direction of the Landlord or the DCA (but not both), Tenant shall pay (A) two hundred percent (200%) of the Owed Monies and Owed Interest in respect of the present LW Violation Final Determination to the affected direct Site Employees of Tenant or of a Site Affiliate, and (B) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

(v) If Tenant fails to obtain an LW Agreement from its Covered Counterparty in violation of paragraph (f) above, then at the discretion of the Landlord or the DCA (but not both), Tenant shall be responsible for payment of the Owed Monies, Owed Interest and other payments described in subparagraphs (ii), (iii) and (iv) above (as applicable) as if the direct Site Employees of such Covered Counterparty were the direct Site Employees of Tenant.

(vi) Tenant shall not renew the Specified Contract of any specific Covered Counterparty or enter into a new Specified Contract with any specific Covered Counterparty if both (A) the aggregate amount of Owed Monies and Owed Interest paid or payable

by such Covered Counterparty in respect of its direct Site Employees for all past and present LW Violation Final Determinations (or that would have been payable had such Covered Counterparty entered into an LW Agreement) is in excess of the LW Violation Threshold and (B) two or more LW Violation Final Determinations against such Covered Counterparty (or in respect of the direct Site Employees of such Covered Counterparty) occurred within the last 6 years of the term of the applicable Specified Contract (or if the term thereof is less than 6 years, then during the term thereof); provided that the foregoing shall not preclude Tenant from extending or renewing a Specified Contract pursuant to any renewal or extension options granted to the Covered Counterparty in the Specified Contract as in effect as of the LW Agreement Delivery Date applicable to such Covered Counterparty.

(vii) It is acknowledged and agreed that (A) other than as set forth in Section 8.2, the sole monetary damages that Tenant may be subject to for a violation of this Section 23.5 are as set forth in this paragraph (k), and (B) in no event will the Specified Contract between Tenant and a given Covered Counterparty be permitted to be terminated or rescinded by the Landlord, the DCA or the Comptroller by virtue of violations by Tenant or another Covered Counterparty.

The terms and conditions set forth in this Section 23.5 shall survive the expiration or earlier termination of this Lease.

Section 23.6 Other Commitments.

(a) HireNYC Program: Tenant shall comply with the HireNYC: Permanent Program annexed as Exhibit H-2 to this Lease.

(b) Intentionally Omitted

(c) Labor Peace Agreement. Within one hundred twenty (120) days of the date hereof, Tenant shall provide Landlord with an executed Labor Peace Agreement, satisfactory to Landlord in its sole discretion.

Section 23.7 Project Report and Meetings.

(a) Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Landlord may reasonably request from time to time (but not more than twice during any twelve month period) upon not less than sixty (60) days' prior written notice, Tenant shall deliver a written report to Landlord in form reasonably acceptable to Landlord (the "Project Report") setting forth the status of the Project, and the manner in which Tenant is complying with the Project Commitments and Required Use as of the end of the immediately preceding calendar year (or, in the case of a Project Report otherwise requested by Landlord, as of the date of such request). The Project Report shall, among other things, contain Tenant's certification as to whether (i) the Premises are in compliance in all material respects with the applicable Project Commitments and the Required Use, (ii) the Premises are in compliance in all material respects with the Use and Operating Requirements set for above, and (iii) in Tenant's reasonable and good faith judgment, Tenant anticipates that Tenant will be able to comply timely in all material respects with any Project Commitments and/or Use and Operating Requirements set

for above to be performed in the upcoming year of the Lease or Lease Year, as applicable. In the event that Tenant shall be unable to provide the required certifications, the Project Report shall identify any areas of non-compliance with specificity, and explain the reasons for such non-compliance (a "Non-Compliance Notice"). Landlord shall endeavor to review each Project Report and submit any questions thereto or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Project Report.

(b) Following the end of each calendar quarter during the Term, Landlord and Tenant shall meet at Landlord's offices to discuss any matters or issues either Landlord or Tenant may desire to discuss regarding the Project, this Lease or the Premises.

ARTICLE 24
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental (including, without limitation, any payment of Base Rent, Percentage Rent, or Additional Rent), utility charges, insurance premiums or Impositions as required hereunder or any other amount required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant; or

(b) if Tenant shall fail to make the Tenant's Initial Construction Funds Deposit as, if and when required under Section 13.1(a) and such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; or

(c) if prior to the date on which Landlord's Capital Work is Substantially Completed Tenant shall fail to use commercially reasonable efforts to remove any licensee following delivery of a notice by Landlord pursuant to Section 15.4(c) that Landlord intends to commence and undertake Landlord's Capital Work, and such failure continues for ten (10) Business Days after Landlord's notice thereof to Tenant specifying such failure; or

(d) if Tenant shall enter into an Assignment, Transfer or Major Sublease without compliance with the provisions of this Lease and such Assignment, Transfer or Major Sublease shall not be made to comply with the provisions of this Lease or canceled within thirty (30) days after Landlord's notice thereof to Tenant; or

(e) if Tenant shall fail to maintain the insurance required to be maintained by Tenant pursuant to Article 7, and such failure continues for ten (10) Business Days after Landlord's notice thereof to Tenant specifying such failure; or

(f) if Tenant shall fail to respond to and rectify any violations issued by any Governmental Authority in connection with the use and occupancy of the Premises by Tenant or any Subtenant and/or the construction of the Improvements, and such failure shall continue for a period of forty-five (45) days after notice thereof, unless such violation cannot be rectified within such forty-five (45) day period, in which case no Event of Default shall be deemed to exist as long

Term option, the Term shall expire in sixty (60) days from delivery of such notice. A Recognized Mortgagee shall on behalf of Tenant have the right to exercise the options for an Extended Term set forth in this Section 2.4.

Section 2.5 Non-Competition.

(a) Prior to the earlier to occur of (i) the issuance of a temporary certificate of occupancy for the East Tower, or (ii) April 1, 2010, neither the City nor Lease Administrator will allow any redevelopment project or new construction project to break ground if such new project is (x) located on City-owned land; and (y) expected to include more than 25% of Rentable Square Feet dedicated to Commercial Life Science Use.

(b) Notwithstanding the foregoing Section 2.5(a), neither the City nor the Lease Administrator would be prohibited from pursuing or assisting the projects commonly known as (i) Audubon IV; (ii) Brooklyn Army Terminal; and (iii) any other projects not located on City-owned land, which may be assisted with, or benefited by, economic benefits or economic incentives provided by the IDA.

(c) To the extent that the City or Lease Administrator breaches the provisions of Section 2.5(a), the number of Rentable Square Feet required to be devoted to Commercial Life Science Use pursuant to the special use requirements set forth on Schedule A hereof shall be reduced one Rentable Square Foot for each Rentable Square Foot developed or constructed in violation of the requirements of Section 2.5. By way of illustration only: if a new building, containing 20,000 Rentable Square Feet of space, is developed, and one-half is dedicated to Commercial Life Science Use, the number of Rentable Square Feet required to be devoted to Commercial Life Science Use in the Project shall be reduced by 5,000 Rentable Square Feet (i.e., the number of Rentable Square Feet in excess of twenty-five percent (25%) of the Rentable Square Footage of the new building devoted to life science use).

Section 2.6 Use of Psychiatric Building. Tenant has been advised by Lease Administrator that the New York City Department of Homeless Services intends to discontinue its current use of the Psychiatric Building. In the event that the Psychiatric Building continues to be used to provide shelter beds and "intake" services for homeless individuals, and such use continues for any period following the date which is three (3) years after the Commencement Date, the initial eighteen (18) month period described in the first paragraph of Schedule A, under the Heading "Commercial Use," shall be reduced by three (3) days for each day (subsequent to the expiration of such three (3) year period) that the Psychiatric Building continues to be used to provide shelter beds and "intake" services for homeless individuals. Lease Administrator agrees to inform Tenant, on a regular basis, of the status of the efforts by the New York City Department of Homeless Services to discontinue its current use of the Psychiatric Building.

which case Tenant shall not be entitled to an apportionment except for the purpose of applying such amount as a credit pursuant to Section 22.03(b) hereof).

Section 5.05. Taxes.

Provided the City shall be Landlord, Landlord shall pay, cancel, or otherwise satisfy and discharge of record any and all Taxes on or before the due date thereof (which may be by bookkeeping entry, interdepartmental direction or other manner or procedure selected by Landlord). If the City shall cease to be Landlord, prior to any conveyance of the Premises, the Landlord shall have obtained a separate tax lot for the Premises so that the Premises are taxed and assessed separately from any other premises and any new Landlord shall pay any and all Taxes on or before the due date thereof, it being understood that under no circumstances shall Tenant be responsible for the payment of Taxes. If Landlord shall have failed to pay or discharge the Taxes as required hereunder and Tenant shall not have timely commenced a proceeding to contest the same as provided in Section 33.01 hereof, or if Tenant shall have timely commenced such a proceeding to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will or is reasonably likely to result in the imminent loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease or Tenant would or is reasonably likely by reason thereof be subject to any civil or criminal penalty or liability, then Tenant may pay such unpaid Taxes together with any interest or penalties thereon and deduct such payment from the next Rental due, with interest until repaid or credited in full at the rate (the "City's Payment Rate") which is the lesser of the New York City Department of Finance Penalty Rate (18%) or the interest rate specified in Section 3-a(1) of the General Municipal Law of the State of New York, as it may be amended from time to time.

Section 5.06. Landlord's Cooperation in Securing Tax Abatement.

Landlord and Lease Administrator shall cooperate with Tenant in obtaining for Tenant the benefit of all City and State of New York incentive or abatement programs available to Tenant, including any with respect to real estate or leasehold occupancy taxes, empire and empowerment zones, sales and use taxes on materials, machinery and equipment incorporated at the Premises, employee hiring and payroll and the like.

Section 5.07. Intentionally Omitted.

Section 5.08. Survival.

The provisions of this Article 5 shall survive any termination of this Lease.

ARTICLE 6

USE AND DEVELOPMENT OF PREMISES

Section 6.01. Permitted Uses. Tenant shall use and occupy the Premises for the purpose of receiving, processing, packaging, preparation, storage, sale and distribution of fresh, frozen, processed and/or prepared produce and food products and related inventory and equipment in connection with Tenant's and its Affiliates' business, and related administrative functions, including ancillary office use and related truck parking and maintenance (each a

"Permitted Use" and, collectively, the "Permitted Uses"). Tenant and Tenant's servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, any reasonable restrictions on use as Landlord may from time to time adopt, provided same do not materially interfere with Tenant's Permitted Uses. Notice of any additional restrictions shall be given at least thirty (30) days in advance of the date such restriction is proposed to become effective. Notwithstanding anything contained in this Section to the contrary, Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees. In addition to the foregoing, Tenant shall be entitled to exclusive signage rights on the Land, including free-standing, billboard or pylon signage and signage on the exterior façade and/or roof of the Building and/or Rail Shed. Tenant shall be permitted to install the maximum signage permitted under applicable Laws, provided same comply with applicable Requirements, including, but not limited to, those of the Public Design Commission of the City of New York, and provided that such signage contain no noxious content and/or content that is political in nature, and Landlord shall not take or permit any action to diminish Tenant's signage rights hereunder as to size, height, location or the like.

Section 6.02. Requirements for Conduct of Business Tenant acknowledges that the Building and the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law and of a "public wholesale market" under § 22-251(h) of the New York Administrative Code. Tenant further acknowledges and agrees that it shall comply with the requirements as required pursuant to the general provisions of Article 14 hereof.

Section 6.03. Unlawful Use; No Representation of Landlord.

(a) During the Term, Tenant shall not use or occupy the Premises or any part thereof (or permit anyone claiming by, through, or under Tenant to use or occupy the Premises, or any part thereof) to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any of the Requirements, any certificate of completion or occupancy affecting the Premises or this Lease or in such manner as may make void or voidable any insurance then in force with respect to the Premises, the Building or the Premises. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. Tenant shall not keep anything in the Premises which may cause or be apt to cause structural injury to the Premises or any part thereof, or as will constitute a public or private nuisance, or anything except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to make it difficult or impossible to obtain fire insurance for the Premises or increase the rate for fire insurance applicable to the Building, nor, prior to the Full Vacate Date, use the Premises in a manner which will increase the insurance rate for the Building or any property located therein over that otherwise in effect. If by reason of Tenant's failure to comply with the foregoing the fire insurance rate shall, at any time prior to the Full Vacate Date, be higher than it otherwise would be, then Tenant shall be obligated to pay such additional cost which shall have been charged because of such failure by Tenant.

(b) Any installation on any floor of the Premises shall be placed and maintained by Tenant, at Tenant's expense, in settings sufficient, in Landlord's reasonable

judgment, to absorb and prevent vibration, noise and annoyance.

(c) Tenant shall use its best efforts, at Tenant's expense, to contain any noxious odors that may arise from Tenant's use of the Premises in accordance with this Section.

(d) Any installation on or activity conducted at the Premises shall incorporate advances in the art of noise control and odor control, as applicable, developed for the kind and level of noise or odor, as applicable, emitted or produced by such installations or activity, all in accordance with or required by any applicable regulations issued by the New York City Department of Environmental Protection of the City, or its successor, or any other relevant agency or authority.

(e) Landlord represents that the Building and the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law and of a "public wholesale market" under § 22-251(h) of the New York Administrative Code and that the Permitted Use is a valid public market use under applicable law. Landlord makes no representation as to the legality of the actual or intended particular manner of the use of the Premises by Tenant. If any use or proposed use is determined to be illegal by a court of competent jurisdiction or an administrative law judge, Tenant agrees that neither Landlord nor Administrator nor any of their respective agents, officers and employees, or any person whatsoever, shall be liable for any damages arising out of or related to such illegal use or proposed use.

ARTICLE 7

INSURANCE

Section 7.01. Insurance Requirements. At all times during the Term, Tenant, at its sole cost and expense, shall carry and maintain in full force and effect, or cause to be carried and maintained in full force and effect, insurance coverage of the following types or insuring the described risks and in the minimum limits set forth below. For clarification, notwithstanding any reference to the "Premises" hereinbelow, prior to the Full Vacate Date, nothing herein shall make Tenant responsible to carry insurance covering any damage to any portion of the Land, Building (or components thereof) or Exterior Areas not yet demised to Tenant hereunder or which are otherwise reserved to Landlord to maintain, repair or restore.

(a) Liability Insurance. Commercial General Liability insurance protecting against all liability with respect to the Premises and the operations related thereto, whether conducted on or off the Premises, for bodily injury, death, personal injury and property damage, in an amount not less than Five Million Dollars ($5,000,000) per occurrence and in the aggregate, and designating Tenant as "named insured," and Guarantor, Landlord, Lease Administrator and Apple as "additional insureds." If during any year, it appears that the amount of liability resulting from insured occurrences may exceed any annual aggregate applicable to the insurance required by this subsection, Tenant shall procure and maintain for the remainder of such year insurance against future-arising claims that satisfy the requirements of this subsection in all respects, including required amounts. The Commercial General Liability Insurance

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ARTICLE 21

NO ABATEMENT OF RENTAL

Except as otherwise expressly provided herein, there shall be no abatement, diminution or reduction of Rental or other sums, costs, expenses, charges, payments or deposits payable by Tenant hereunder or of the other obligations of Tenant hereunder under any circumstances.

ARTICLE 22

PERMITTED USE; NO UNLAWFUL OCCUPANCY; PEDESTRIAN STREET

Section 22.01. Subject to the provisions of law and this Lease, Tenant shall use the Premises (a) during the five (5) year period commencing upon the Completion of the Buildings as and for a shopping center and a parking facility (b) thereafter, for any lawful purpose, and for no other purpose.

Section 22.02.

(a) Tenant shall not use or occupy Block 149, Lot 1 comprising a part of the Premises for the parking of vehicles (except vehicles used in the demolition or construction of improvements on the Premises) until the completion of the Buildings required to be constructed pursuant to Article 10 hereof.

(b) Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, or for any business, use or purpose deemed disreputable or extra hazardous, or in such manner as to constitute a nuisance of any kind, public or private, or for any purpose or in any way in violation of the certificate of occupancy, the Brooklyn Center Urban Renewal Plan or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations or which may make void or voidable any insurance then in force on the Premises. Tenant shall immediately upon the discovery of any such unlawful, illegal, disreputable or extra hazardous use take all necessary steps, legal and equitable, to compel the discontinuance of such use and to oust and remove any subtenants, licensees, concessionaires or other occupants guilty of such unlawful, illegal, disreputable or extra hazardous use.

the proceeds of an Urban Development Action Grant from the United States Department of Housing and Urban Development.

"Unavoidable Delays" shall mean delays due to acts of God, strikes or other labor stoppages, inability to obtain labor or materials due to governmental restrictions, enemy action, civil commotion, fire, unavoidable casualty or other similar causes but only to the extent that they are beyond the control of Tenant (not including Tenant's insolvency or financial condition) and only those such delays which Tenant shall have notified Landlord of in writing not later than ten (10) days after the same shall occur. Such written notification must specify in detail the event or condition causing the delay, the cause of such event or condition and the work being delayed.

ARTICLE 2
PREMISES AND TERM OF LEASE

Landlord does hereby demise and lease to Tenant, and Tenant does hereby hire and take from Landlord (a) all those certain plots, pieces and parcels of land located in the Borough of Queens, County of Queens, City and State of New York, more particularly described in Exhibit "A" annexed hereto and made a part hereof, and denominated "Description of Land" thereon, together with all easements and other rights pertaining thereto, and (b) except as limited by Section 11.07(b) hereof, all Buildings thereon, subject to those matters affecting title set forth in Exhibit "B" ("Title Matters") annexed hereto and made a part hereof, including but not limited to the Prime Lease and the conditions and limitations contained in the Deed.

TO HAVE AND TO HOLD unto Tenant, its successors and assigns, for a term of years (the "Term") which shall commence as of the date of this Lease ("Commencement Date") and shall expire on the fiftieth anniversary of the Commencement Date or on such earlier date upon which this Lease may be terminated as hereinafter provided ("Expiration Date").

ARTICLE 3
RENT

Section 3.01. Tenant shall pay to Landlord, or to such other person as Landlord may direct in writing, in currency which at the time of payment is legal tender for public and private debts in the United States of America, without notice or demand,

(a) "Base Rent" as follows:

(i) during the first two Lease Years, $75,000 per annum ($6,250 monthly);

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(b) At the commencement of each renewal option which Tenant elects to exercise, if any, Tenant shall deposit with Landlord additional amounts to increase the Security Deposit as follows: (i) at the commencement of the first Extension Term, Tenant shall deposit with Landlord an additional amount of Seven Hundred Fifty Thousand Dollars ($750,000) or an amount based on a CPI adjustment (such CPI adjustment shall be an amount equal to the Security Deposit multiplied by a fraction, the numerator of which shall be the CPI published for the third month prior to the first Extension Term and the denominator of which shall be the CPI published for the third month prior to the Commencement Date), whichever is higher and (ii) at the commencement of each additional Extension Term, an amount based on a CPI adjustment (such CPI adjustment shall be an amount equal to the Security Deposit multiplied by a fraction, the numerator of which shall be the CPI published for the third month prior to the Extension Term and the denominator of which shall be the CPI published for the third month prior to the commencement date of the previous Extension Term).

Section 7.05. Return of Security Deposit. If Tenant shall comply with all of the terms of this Lease, the Security Deposit shall be returned to Tenant within thirty (30) days after the Expiration Date of this Lease, together with interest, if any, accrued thereon, less an amount, to be retained by Landlord, equal to one percent (1%) per annum of the amount of the Security Deposit.

ARTICLE 8

INTENTIONALLY OMITTED

~~ARTICLE 9~~
USE OF PREMISES

Section 9.01. Permitted Use. Tenant shall use and occupy or cause to be used or occupied the Premises for the purpose of receiving, preparing, handling, distributing, refrigerating and warehousing, food products (beverages being inclusive thereof) and for ancillary parking and offices uses and for other purposes incidental thereto and no other purpose provided, however, that Tenant shall not use the Premises for wholesale purchase, sale or distribution of seafood. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord, to be given at Landlord's sole discretion.

Section 9.02. Requirements for Conduct of Business. Tenant acknowledges that the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law. Tenant, at its sole cost and expense, shall promptly comply with all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or any part thereof, for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or

9 Atlantic Ctr Fort Greene

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as first-class Brooklyn retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of first-class Brooklyn retail and parking facilities and all uses incidental thereto.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

Section 23.3. Fort Greene Place. Tenant shall maintain the right-of-way over Fort Greene Place reserved to Landlord hereunder unobstructed by any installation or improvements, provided that Fort Greene Place may be improved as per the Plans and Specifications.

such Default or Event of Default unless the entire outstanding amount due or damages suffered by Landlord, as the case may be, shall have been paid in full.

Section 7.04. Additional Deposits.

(a) If Landlord uses or applies the Security Deposit or any part thereof for any of the foregoing purposes, Tenant shall immediately deposit with Landlord an amount sufficient to restore the Security Deposit to its amount prior to such use or application.

(b) On the tenth (10th) anniversary of the Commencement Date, and every tenth anniversary of the Commencement Date thereafter, Tenant shall deposit with Landlord an amount sufficient for the Security Deposit to equal One Hundred Fifty per cent (150%) of the then-payable monthly installments of Annual Base Rent.

(c) If Tenant elects to extend the Term pursuant to Section 2.02(b) hereof, prior to the commencement of each Extended Term, Tenant shall deposit with Landlord an additional amount to increase the Security Deposit to an amount equal to 150% of the monthly installment of Annual Base Rent payable during such respective Extended Term.

Section 7.05. Return of Security Deposit. If Tenant shall comply with all of the terms of this Lease, the Security Deposit shall be returned to Tenant within thirty (30) days after the Expiration Date of this Lease, together with interest, if any, accrued thereon, less an amount, to be retained by Landlord, equal to one percent (1%) per annum of the amount of the Security Deposit.

ARTICLE 8

INTENTIONALLY OMITTED

ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use. Tenant and its Affiliates shall use and occupy, and shall cause the Premises to be used and occupied, and Premises for the purpose of receiving, preparing, handling, distributing, refrigerating and warehousing of food products and paper goods related to and in conjunction with the food products being received, prepared, handled, distributed, refrigerated and warehoused, and for ancillary parking, truck operation facilities, and offices uses, and for other purposes incidental thereto, and for no other use or purpose; provided, however, that Tenant shall not use the Premises for wholesale purchase, sale or distribution of fresh seafood except for pre-packaged seafood items such as canned or pre-packaged smoked fish, caviar, Caesar salad containing anchovies and the like. In addition to, and without in any way limiting the foregoing, Tenant acknowledges and understands that Landlord has agreed to the restrictive covenant set forth in Exhibit I attached hereto pursuant to a lease between Landlord and Fulton Fish Market Cooperative at Hunts Point (the "Fish Covenant"), and Tenant

shall not use the Premises nor permit the Premises to be used in a manner such that Landlord would be in violation of the Fish Covenant.

Section 9.02. Requirements for Conduct of Business. Tenant acknowledges that the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law. Tenant, at its sole cost and expense, shall promptly comply with all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or any part thereof, for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises.

Section 9.03. Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any of the Requirements, any certificate of completion or occupancy affecting the Premises or this Lease or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. Tenant shall not keep anything in the Premises which may cause or be apt to cause structural injury to the Premises or any part thereof, or as will constitute a public or private nuisance, or anything except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to make it difficult or impossible to obtain fire insurance for the Premises or increase the rate for fire insurance applicable to the Premises, nor use the Premises in a manner which will increase the insurance rate for the Premises over that otherwise in effect. If by reason of Tenant's failure to comply with the foregoing the fire insurance rate shall, at any time, be higher than it otherwise would be, then Tenant shall be obligated to pay such additional cost which shall have been charged because of such failure by Tenant.

Section 9.04. No Representations or Warranty by Landlord.

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officials, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of

Landlord, Lease Administrator and Apple, and their respective directors, officials, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use in accordance with Article 23 hereof.

ARTICLE 10

INTENTIONALLY OMITTED

ARTICLE 11

INSURANCE

Section 11.01. Insurance Requirements. At all times during the Term, Tenant, at its sole cost and expense, shall carry and maintain in full force and effect, or cause to be carried and maintained in full force and effect, insurance coverage of the following types and limits for the described risks and in the minimum limits set forth below:

(a) Liability Insurance. Commercial General Liability insurance protecting against all liability with respect to the Premises and the operations related thereto, whether conducted on or off the Premises, for bodily injury, death, personal injury and property damage, in an amount not less than Five Million Dollars ($5,000,000) per occurrence and in the aggregate, and designating Tenant as "named insured," and Landlord, Lease Administrator and Apple as "additional insureds." If during any year, it appears that the amount of liability resulting from insured occurrences may exceed any annual aggregate applicable to the insurance required by this subsection, Tenant shall procure and maintain for the remainder of such year insurance against future-arising claims that satisfy the requirements of this subsection in all respects, including required amounts. The Commercial General Liability Insurance required hereby shall:

(i) include a broad form property damage liability endorsement with a fire legal liability limit of not less than One Hundred Thousand Dollars ($100,000) per fire, with no adjustment for inflation;

(ii) contain blanket contractual liability insurance covering written contractual liability, and specifically covering Tenant's indemnification obligations under Article 23 hereof;

(iii) contain unintentional contractors coverage;

(iv) [illegible] clause, specifically requiring notice of cancellation or non-renewal for non-payment of premium, and for any material reduction in coverage;

(v) contain an unintentional errors and omissions clause;

ARTICLE 6

UTILITIES

Section 6.01. Utility Service to Premises. Tenant must obtain and pay all costs of utilities (including, without limitation, installation thereof, if applicable), including all sewer charges and charges for all water, gas, heat and electricity, consumed and used in, or with respect to, the Premises, and Tenant, at its sole cost and expense, shall maintain and repair all meters and procure all permits, approvals and licenses necessary to secure delivery of such utility services. Tenant shall pay any utility charges directly to the companies supplying such utility services all charges therefor, as the same shall become due.

Section 6.02. No Obligation on the Part of Landlord. Landlord shall have no obligation to provide any utility services to the Premises, or any part thereof, and neither Landlord, Lease Administrator nor Apple shall have any responsibility or liability to Tenant or any third party in the event any such utility services are not provided to the Premises, or any part thereof, provided, however, that Landlord shall use best efforts to provide Tenant with access such that it may obtain utilities.

ARTICLE 7

(INTENTIONALLY OMITTED)

ARTICLE 8

INTENTIONALLY OMITTED

ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use. Tenant and its Affiliates shall use and occupy, and shall cause the Premises to be used and occupied, the Premises for the purpose of construction, operation, and maintenance of an indoor multi-sport (including, but not limited to basketball) recreation facility available to leagues and individuals, and for special events, with workout rooms, locker rooms, public access space, snack bar, and ancillary rooms and construction and maintenance of outdoor pier apron amenities, outdoor courts, and parking, and for no other use or purpose. Public access to pier apron is required between 9am and dusk. Without limitation of the foregoing restrictions, no part of the Premises, including without limitation the pier and bulkhead, shall be used for any maritime activity or in furtherance of navigation, including without limitation vessel berthing and dry docking, or movement of goods or chattel to or from the waters adjacent to the Premises and points inland. Subject to the terms and conditions of this

Lease, Tenant may commence using the Premises for the uses permitted hereunder upon Substantial Completion of Tenant's Work for the interior of the Building.

Section 9.02. Requirements for Conduct of Business. Except for maintenance and repairs for which Landlord is responsible pursuant to the provisions of this Lease, Tenant, at its sole cost and expense, shall promptly comply with all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or any part thereof, for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use in lieu of any permit or approval from any public or private party which may be required. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises.

Section 9.03. Limited Free Public Access. Tenant shall make court time available (e.g., basketball, volley ball, badminton, soccer), or equivalent (in terms of time and facilities) placements in its programs (such as camps, clinics, classes, etc), to local schools and not-for-profit community organizations, at no charge, as follows.

(i) 9 court hours per day of off-peak weekday court time (9am to 3pm - Monday - Friday);

(ii) 5 court hours per day of peak weekday court time (3pm to 11pm - Monday - Friday);

(iii) 3.5 court hours per day of peak weekend court time (9am to 3pm); and

(iv) 4.5 court hours per day of off-peak weekend court time (3pm to 6pm).

Section 9.04. Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any of the Requirements, any certificate of completion or occupancy affecting the Premises or this Lease or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. Tenant shall not keep anything in the Premises which may cause or be apt to cause structural injury to the Premises or any part thereof, or as will constitute a public or private nuisance, or anything except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to make it difficult or impossible to obtain fire insurance for the Premises or increase the rate for fire insurance applicable to the Premises. If by reason of Tenant's failure to comply with the foregoing the fire insurance rate shall, at any time, be higher than it otherwise would be, then Tenant shall be obligated to pay such additional cost which shall have been charged because of such failure by Tenant.

Section 9.05. Representations or Warranty by Landlord.

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the physical condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officials, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator and Apple, and their respective directors, officials, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use in accordance with Article 23 hereof.

(c) Landlord represents and warrants to Tenants that it has all requisite power and authority to execute, deliver and perform this Lease. Upon execution and delivery of this Lease by the parties hereto, this Lease shall constitute a legal, valid, binding and enforceable obligation of Landlord.

(d) To Landlord's knowledge, beyond normal wear and tear, there have been no significant changes in the condition of the Landlord Structural Elements as and to the extent set forth in HPA Engineers, P.C., titled "Piers 35 & 36 Manhattan, New York, Routine Inspection", dated March 2006. In addition, Landlord represents that the demising wall separating the Demised Premises from the remainder of the Pier Shed is structurally sound and in good condition and repair.

ARTICLE 10

CONSTRUCTION, MANAGEMENT AND MAINTENANCE OF PUBLIC ACCESS AREA

Section 10.01. Construction of the Public Access Area. Tenant covenants as follows:

(a) it shall construct the Public Access Area in substantial conformity with the Public Access Area drawings, attached hereto as Exhibit G ("**Substantial Completion of the PAA**");

(b) it shall not apply for or accept a temporary certificate of occupancy or completion for any portion of the Premises until it has achieved Substantial Completion of the PAA and Landlord has provided a copy of the certification evidencing Substantial Completion of the PAA to the Buildings Department, provided, however, that this restriction shall not apply when delay in completing the PAA is due to Landlord's acts or omissions, provided, however, that of Tenant is ready to apply for a temporary certificate of occupancy or completion at a time at such time as it is out-of-season for the installation of plants on the PAA, Tenant may nevertheless apply for same, and if Tenant is ready to accept a temporary certificate of occupancy or completion at a time at such time as it is out-of-season for the installation of

Bridgemarket Associates LP

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provisions of this Article shall be applied against amounts thereafter becoming due and payable by Tenant pursuant to the foregoing provisions. Any deposits or interest remaining after application of deposits and interest as aforesaid shall be paid to Tenant.

ARTICLE 7
LATE CHARGES

If any amount payable to Landlord hereunder shall not be paid within 10 days after the date on which it is due and payable as provided in this Lease, a late charge per month equal to one-twelfth (1/12th) of the Default Interest Rate (computed on a 30-day month) on the sums so overdue shall become immediately due and payable to Landlord as liquidated damages for the administrative costs and expenses incurred by Landlord by reason of Tenants failure to make timely payment, and said late charges shall be payable by Tenant on demand as additional rent. No failure by Landlord to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article in any instance thereafter occurring. The provisions of this Article 7 shall not be construed in any way to extend the grace periods or notice periods provided for in Article 25 of this Lease.

ARTICLE 8
DEVELOPMENT, USE AND OPERATION OF PROJECT

Section 8.01 ~~Tenant, at~~ its sole cost and expense, shall construct on and within the Premises (including below-grade areas) all those improvements necessary to develop and operate the Premises as a first class food-oriented and specialty retail marketplace containing not less than 62,500 nor more than 130,000 square feet as further described in Section 8.09 hereof, including, without limitation, (i) certain below grade, grade level and upper level space within that portion of the Premises consisting of space (the "Arch Space") beneath the Guastovino Arches (the "Arches") within the Bridge approach structure; (ii) on the parcel of land to the south of the Arch Space (the "Plaza"), a sitting area accessible to the public and a structure containing not more than 4,800 square feet of space; and (iii) certain improvements to City streets abutting the Premises as shown on the Plans (hereinafter defined). The above shall include all finishing work in the Common Areas (as defined in I(ii) of the "Gross Receipts" definition in Article 1 hereof) and all repairs and alterations necessary to make the Premises, and the systems therein, suitable for the intended purpose, including without limitation repair or installation of drainage, heating, ventilating, air conditioning, electrical and plumbing systems and shall include all other necessary work, installations and equipment. All of the above (which may be

performed by Tenant or by Subtenants), together with any alterations or additional improvements from time to time made to the Premises by Tenant or a Person whose rights in the Premises derive from Tenant, is hereinafter referred to as the "Improvements," and the Premises, as improved with the Improvements, is hereinafter referred to as the "Project." The Improvements shall be constructed in substantial accordance with preliminary plans (the "Plans") which are attached hereto as Exhibit D and which have been approved by Landlord, it being understood that such Plans provide for Improvements consisting of approximately 97,888 square feet.

Section 8.02

(a) Within nine months after the Commencement Date (such period being subject to extension on account of Unavoidable Delays, including any deriving from Tenant's inability to obtain vacant and unencumbered possession of the Premises) Tenant shall submit (i) to Landlord, for review and approval, those final architectural working drawings and specifications for the project (the "Final Architectural Drawings") which, in the reasonable determination of Landlord, bear on matters treated in the plans and (ii) to DOT for review and approval, the Final Architectural Drawings, plus those final working drawings and specifications which, in the determination of DOT, bear on structural, drainage or other engineering aspects of the Premises and/or the Bridge or abutting streets (such engineering related drawings to be submitted to DOT are hereinafter referred to as the "Final Engineering Drawings").

(b) Except as otherwise provided below, no construction, including demolition or excavation, shall commence within or upon the premises until Landlord has approved the Final Architectural Drawings and DOT has approved the Final Engineering Drawings and the Final Architectural Drawings. Landlord shall review and approve or disapprove the Final Architectural Drawings within 30 days after submission. If Landlord shall not have approved or disapproved the Final Architectural Drawings within the time above specified, then the same shall be deemed approved by Landlord. Landlord shall use its best efforts to ensure that DOT acts expeditiously and reasonably in reviewing the Final Engineering Drawings and the Final Architectural Drawings. It is understood that the project may be designed and constructed in phases on a fast track basis. Accordingly, Tenant may submit to Landlord and DOT, as appropriate, Final Architectural Drawings and Final Engineering Drawings with respect to separate phases, including demolition or excavation, of construction and, upon approval of the same as provided above, Tenant may proceed with construction of the work (including demolition or excavation) encompassed by such drawings. Nonetheless, Final Architectural Drawing and Final Engineering Drawings with respect to the entire Project shall be submitted to Landlord and DOT within the nine month period (as the same may be extended on account of Unavoidable Delays) provided above.

bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances.

Section 22.2 Reimbursement For Amounts Paid by Landlord Pursuant to this Article. Any amounts paid by Landlord pursuant to Section 22.1 hereof, including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed to Landlord on Landlord's demand, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease and/or to take such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use. Effective upon the Substantial Completion Date, Tenant may use and operate the Leased Unit throughout the Term as first-class office premises, with ancillary retail, recreational and parking facilities located in other Units in accordance with the certificates of occupancy therefor and the Requirements, and for no other use or purpose inconsistent with the operation of a first-class office building located in New York City; provided, however, that should this Lease be acquired by a Recognized Mortgagee or its designee, or a purchaser at a foreclosure sale or other enforcement of the Recognized Mortgage, or should a new lease be granted to a Recognized Mortgagee or its designee, in each case as contemplated by Article 11, the new tenant may use the Leased Unit for any lawful purpose subject to the obligation to comply with the Requirements, including, without limitation, the City's Zoning Resolution and any environmental requirements for the Project, as the same may be amended from time to time.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Leased Unit, shall neither permit nor suffer the Leased Unit or any part thereof to be used or occupied, and

shall cause the Board of Managers not to suffer or permit the Common Elements to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Leased Unit, or in such manner as may make void or voidable any insurance then in force with respect to the Leased Unit or the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Leased Unit of any Subtenants using a portion of the Leased Unit for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof; provided, however, in no event shall (i) a failure by MWR to pay Prior Deferred Rent or Prior Deferred PILOT in accordance with Sections 3.2(f) and 3.4(g) (but not a failure by Tenant to cause any distributions otherwise payable to MWR to be paid to Landlord pursuant to said Sections) or (ii) during the term of the Bonds, a failure by Tenant to make payments required pursuant to Section 3.3, constitute or be deemed an Event of Default under this Lease, subject, however to Section 3.3(f);

(b) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of thirty (30) days after Landlord's notice thereof to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within the thirty (30) day period and shall diligently and continuously prosecute the same to completion);

(c) to the extent permitted by law, if Tenant shall make an assignment for the benefit of the then creditors;

(d) to the extent permitted by law, if Tenant shall file a voluntary petition under Title 11 of the United States Code or if such petition shall be filed against Tenant and an order for relief shall be entered, or if Tenant shall file a petition or an answer seeking, consenting to or then acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, State or other bankruptcy or insolvency statute or law, or shall seek, or consent to, in writing, the appointment of any

Landlord's demand, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease and/or to take such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Leased Unit throughout the Term as first-class office premises, with ancillary retail, recreational and parking facilities located in other Units in accordance with the certificates of occupancy therefor and the Requirements, and for no other use or purpose inconsistent with the operation of a first-class office building located in New York City; provided, however, that should this Lease be acquired by a Recognized Mortgagee or its designee, or a purchaser at a foreclosure sale or other enforcement of the Recognized Mortgage, or should a new lease be granted to a Recognized Mortgagee or its designee, in each case as contemplated by Article 11, the new tenant may use the Leased Unit for any lawful purpose subject to the obligation to comply with the Requirements, including, without limitation, the City's Zoning Resolution and any environmental requirements for the Project, as the same may be amended from time to time.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Leased Unit, shall neither permit nor suffer the Leased Unit or any part thereof to be used or occupied, and shall cause the Board of Managers not to suffer or permit the Common Elements to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Leased Unit, or in such manner as may make void or voidable any insurance then in force with respect to the Leased Unit or the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Leased Unit of any Subtenants

using a portion of the Leased Unit for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof; provided, however, in no event shall (i) a failure by MWR to pay Prior Deferred Rent or Prior Deferred PILOT in accordance with Sections 3.2(f) and 3.4(g) (but not a failure by Tenant to cause any distributions otherwise payable to MWR to be paid to Landlord pursuant to said Sections) or (ii) during the term of the Bonds, a failure by Tenant to make payments required pursuant to Section 3.3, constitute or be deemed an Event of Default under this Lease, subject, however to Section 3.3(f);

(b) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of thirty (30) days after Landlord's notice thereof to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within the thirty (30) day period and shall diligently and continuously prosecute the same to completion);

(c) to the extent permitted by law, if Tenant shall make an assignment for the benefit of the then creditors;

(d) to the extent permitted by law, if Tenant shall file a voluntary petition under Title 11 of the United States Code or if such petition shall be filed against Tenant and an order for relief shall be entered, or if Tenant shall file a petition or an answer seeking, consenting to or then acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, State or other bankruptcy or insolvency statute or law, or shall seek, or consent to, in writing, the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant, or of all or any substantial part of its properties, or of the Leased Unit or any interest of Tenant therein;

(e) to the extent permitted by law, if within sixty (60) days after the commencement of a proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, State or other bankruptcy or insolvency statute or law, such proceeding shall not be dismissed, or if, within one

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ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use. Effective upon the Substantial Completion Date, Tenant may use and operate the Leased Unit throughout the Term as transient and long-term vehicle parking facilities, with ancillary office use (except for any areas of the Leased Unit designated in the plans attached to the Declaration as proposed retail space, which areas may also be used for retail purposes in accordance with the Declaration if all required governmental approvals shall have been obtained), in accordance with the certificate of occupancy therefor and the Requirements, and for no other use or purpose; provided, however, that should this Lease be acquired by a Recognized Mortgagee or its designee, or a purchaser at a foreclosure sale or other enforcement of the Recognized Mortgage, or should a new lease be granted to a Recognized Mortgagee or its designee, in each case as contemplated by Article 11, the new tenant may use the Leased Unit for any lawful purpose subject to the obligation to comply with the Requirements, including, without limitation, the City's Zoning Resolution and any environmental requirements for the Project, as the same may be amended from time to time.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Leased Unit, shall neither permit nor suffer the Leased Unit or any part thereof to be used or occupied, and shall cause the Board of Managers not to suffer or permit the Common Elements to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Leased Unit, or in such manner as may make void or voidable any insurance then in force with respect to the Leased Unit or the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Leased Unit of any Subtenants using a portion of the Leased Unit for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof; provided, however, in no event shall a failure by MWR to pay Prior Deferred Rent or Prior Deferred PILOT in accordance with Section 3.2(f) and 3.4(g) (but not a failure by Tenant to cause any distributions otherwise payable to MWR to be paid to Landlord pursuant to said Sections) constitute or be deemed a Default under this Lease;

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use. Effective upon the Substantial Completion Date, Tenant may use and operate the Leased Unit throughout the Term for first-class transient hotel occupancy available to the general public on a nightly basis, together with, if applicable, conference facilities, banquet facilities, function rooms, food and beverage service, and/or other services and functions generally provided or available in first-class hotels in New York City, with ancillary retail, recreational and parking facilities located in the Leased Unit and in other Units in accordance with the certificates of occupancy therefor and the Requirements, and for no other use or purpose inconsistent with the operation of a first-class transient hotel located in New York City; provided, however, that should this Lease be acquired by a Recognized Mortgagee or its designee, or a purchaser at a foreclosure sale or other enforcement of the Recognized Mortgage, or should a new lease be granted to a Recognized Mortgagee or its designee, in each case as contemplated by Article 11, the new tenant may use the Leased Unit for any lawful purpose subject to the obligation to comply with the Requirements, including, without limitation, the City's Zoning Resolution and any environmental requirements for the Project, as the same may be amended from time to time.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Leased Unit, shall neither permit nor suffer the Leased Unit or any part thereof to be used or occupied, and shall cause the Board of Managers not to suffer or permit the Common Elements to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Leased Unit, or in such manner as may make void or voidable any insurance then in force with respect to the Leased Unit or the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Leased Unit of any Subtenants using a portion of the Leased Unit for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof; provided, however, in no event shall a failure by MWR to pay Prior Deferred Rent or Prior Deferred PILOT in accordance with Section 3.2(f) and 3.4(g) (but not a failure by Tenant to cause any distributions otherwise payable to MWR to be paid to Landlord pursuant to said Sections) constitute or be deemed a Default under this Lease;

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such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use. Effective upon the Substantial Completion Date, Tenant may use and operate the Leased Unit throughout the Term as first-class office premises, for the retail sale of goods and services, for the operation of day care facilities and/or for the maintenance and operation of the Central Plant (as defined in the Declaration), with ancillary recreational and health club facilities, all as more particularly set forth in the Declaration, and all in accordance with the certificate of occupancy therefor and the Requirements, and for no other use or purpose inconsistent with the operation of a first class office building located in New York City; provided, however, that should this Lease be acquired by a Recognized Mortgagee or its designee, or a purchaser at a foreclosure sale or other enforcement of the Recognized Mortgage, or should a new lease be granted to a Recognized Mortgagee or its designee, in each case as contemplated by Article 11, the new tenant may use the Leased Unit for any lawful purpose subject to the obligation to comply with the Requirements, including, without limitation, the City's Zoning Resolution and any environmental requirements for the Project, as the same may be amended from time to time.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Leased Unit, shall neither permit nor suffer the Leased Unit or any part thereof to be used or occupied, and shall cause the Board of Managers not to suffer or permit the Common Elements to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Leased Unit, or in such manner as may make void or voidable any insurance then in force with respect to the Leased Unit or the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Leased Unit of any Subtenants using a portion of the Leased Unit for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof.

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for an additional sixty (60) days after notice by Landlord to Tenant (unless security has been provided as contemplated by Article 17), then, subject to any rights granted to a Recognized Mortgagee under this Lease, Landlord may, but shall not be obligated to, discharge such lien of record either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances.

Section 22.2. Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any out-of-pocket amounts reasonably paid by Landlord pursuant to Section 22.1 hereof shall be paid to Landlord within ten (10) Business Days after Landlord's demand, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3. Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's rights and remedies under this Lease and/or to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder. Notwithstanding the foregoing, if Landlord pays the amount due and Tenant timely reimburses Landlord for sums billed pursuant to Section 22.2, no Default or Event of Default shall exist with respect to such amount as has been paid.

Section 22.4. Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 41.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it which would have been paid had Tenant maintained insurance required to be maintained pursuant to Article 7, and the reasonable out-of-pocket costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Tenant shall use and operate the Premises for any lawful purpose (without limitation of Tenant's obligations under Section 13.1(a)), which may include a retail shopping center (which may include a hotel) and parking facilities (and all uses incidental thereto), in accordance with the certificate(s) of occupancy therefore as the same may be amended or modified from time to time and the Requirements.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises as the same may be amended or modified from time to time, or in such manner as may make void or voidable any insurance then in force with respect to the Premises, nor for any pornography (bone fide book stores targeted to the general public shall not be deemed "pornographic" notwithstanding that they may stock materials of an erotic or sexual interest); "adult", "girlie", or "nudes" sexually oriented business; massage parlor; "figure" art or physical culture establishments of any sort (other than a bona fide health club/gymnasium); junk or salvage yards, including auto wrecking, or paper, junk, metal, or rag storage, sorting or bailing, or similar establishments; incineration or other reduction of garbage (other than trash compactors and dumpsters and other facilities which are ancillary to retail or other commercial occupancy); dumps, transfer stations or other depository for refuse; wholesale produce and meat markets ("markets" shall not include retail/wholesale establishments such as supermarkets and "warehouse clubs" or "wholesale club" such as BJs, Sams Club and Costco), or stockyards or slaughtering of animals or poultry. Immediately upon its discovery of any such unlawful or illegal business or nonpermitted use or purpose, or use or occupation in violation of Section 23.1 or this Section 23.2 or Article 16 hereof, Tenant shall take all proper and necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1, Section 23.2 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1. Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to Commence Construction of the Buildings on or before the Construction Commencement Date (subject to Unavoidable Delays) and such failure shall continue for a period of thirty (30) days (subject to Unavoidable Delays) after notice thereof from Landlord specifying such failure;

(c) if Tenant shall fail to Substantially Complete the Construction of the Buildings on or before the Scheduled Completion Date (subject to Unavoidable Delays) unless Tenant is as of such date diligently prosecuting such construction toward prompt Substantial Completion and continues to do so without interruption except for Unavoidable Delays;

(d) if Tenant shall enter into an Assignment, Transfer or Major Sublease

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Section 5.05. Taxes.

Provided the City shall be Landlord, Landlord shall pay, cancel, or otherwise satisfy and discharge of record any and all Taxes on or before the due date thereof (which may be by bookkeeping entry, interdepartmental direction or other manner or procedure selected by Landlord). If the City shall cease to be Landlord, Landlord shall pay the Taxes on or before the due date thereof, it being understood that under no circumstances shall Tenant pay Taxes. If Landlord shall have failed to pay or discharge the Taxes as required hereunder and Tenant shall not have timely commenced a proceeding to contest the same as provided in Section 33.01 hereof, or if Tenant shall have timely commenced such a proceeding to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will result in the imminent loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease or Tenant would by reason thereof be subject to any civil or criminal penalty or liability, then Tenant may pay such unpaid Taxes together with any interest or penalties thereon and deduct such payment from the next Rental due, with interest at the rate (the "City's Payment Rate") which is the lesser of the City's Borrowing Rate or the interest rate specified in Section 3-a(1) of the General Municipal Law of the State of New York, as it may be amended from time to time.

Section 5.06. Utility Service to Premises and Payment Therefor.

Tenant shall be responsible for obtaining all utility services necessary for the proper operation and functioning of the Premises, including, without limitation, gas, water, heat, electricity, air conditioning and telephone service. Tenant shall pay directly to the companies supplying such utility services all charges for such utility services, as the same shall become due. Tenant shall, at its sole cost and expense, install meters for all such utility services including but not limited to, water, gas and electricity, and shall thereafter maintain such meters in good working order and repair.

Section 5.07. No Obligation on Landlord to Provide Utility Service.

Landlord shall have no obligation to provide any utility services to the Premises (notwithstanding Landlord's obligation described in Section 12.04 herebelow), and Landlord shall have no responsibility or liability in the event any such utility services are not provided to the Premises.

Section 5.08. Survival Clause for Sections 5.06 and 5.07.

The provisions of Sections 5.06 and 5.07 of this Article 5 shall survive any termination of this Lease.

ARTICLE 6

USE AND DEVELOPMENT OF PREMISES

Section 6.01. Permitted Uses. Tenant shall use and occupy the Premises for the purpose of receiving, preparing, handling (including packaging), distributing, refrigerating and warehousing, of food products and no other purpose provided, however, that Tenant shall not use the Premises for wholesale purchase, sale or distribution of seafood. Tenant and Tenant's

servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, any reasonable restrictions on use as Landlord may from time to time adopt. Notice of any additional restrictions shall be given in advance of the date such restriction is proposed to become effective. Notwithstanding anything contained in this Section to the contrary, Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

Section 6.02. Requirements for Conduct of Business. Tenant acknowledges that the Property and the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law. Tenant, at its sole cost and expense, shall promptly comply with all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or any part thereof, or to the use or manner of use of the Premises or the owners, tenants or occupants thereof, even though such Requirement shall necessitate structural changes, repairs or improvements, or the use or application of portions of the Premises for compliance therewith, and even though compliance with the provisions of this Section may interfere with the use and enjoyment of the Premises.

Section 6.03. Unlawful Use: No Representation of Landlord.

(a) During the Term, Tenant shall not use or occupy the Premises or Permit Are, or permit or suffer the Premises, the Permit Area or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any of the Requirements, any certificate of completion or occupancy affecting the Premises or this Lease or in such manner as may make void or voidable any insurance then in force with respect to the Premises, the Permit Area, the Building or the Property. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. Tenant shall not keep anything in the Premises which may cause or be apt to cause structural injury to the Premises or any part thereof, or as will constitute a public or private nuisance, or anything except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to make it difficult or impossible to obtain fire insurance for the Premises or increase the rate for fire insurance applicable to the Building, nor use the Premises in a manner which will increase the insurance rate for the Building or any property located therein over that otherwise in effect. If by reason of Tenant's failure to comply with the foregoing the fire insurance rate shall, at any time, be higher than it otherwise would be, then Tenant shall be obligated to pay such additional cost which shall have been charged because of such failure by Tenant.

(b) Any installation on any floor of the Premises shall be placed and maintained by Tenant, at Tenant's expense, in settings sufficient, in Landlord's reasonable judgment, to absorb and prevent vibration, noise and annoyance.

(c) Tenant shall use its best efforts, at Tenant's expense, to contain any odors that may arise from Tenant's use of the Premises in accordance with this Section.

(d) Any installation on or activity conducted at the Premises shall incorporate

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(30) days after the date when an Imposition is due and payable, official receipts of the appropriate taxing authority or other proof reasonably satisfactory to the City, evidencing the payment thereof.

(e) Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein.

(f) Any Imposition relating to a fiscal period of the taxing authority, a part of which is included within the Term and a part of which is included in a period of time before the Lease Commencement Date or after the Expiration Date, shall be apportioned pro rata between Landlord and Tenant as of the Lease Commencement Date or the Expiration Date.

(g) The City shall pay, cancel, or otherwise satisfy and discharge of record any and all Taxes on or before the due date thereof (which may be by bookkeeping entry, interdepartmental direction or other manner or procedure selected by the City).

ARTICLE 5

THE ELC PROJECT

Section 5.01. Use of the Premises.

(a) Subject to the provisions of the Lease, Tenant shall use the Premises solely to promote the local community's, schools' and the general public's appreciation and understanding of sustainable environmental living in an urban setting in accordance with the following:

(i) Tenant shall construct a building on the Premises in accordance with the provisions of Section 5.02 of this Lease for use as an Environmental Center.

(ii) Tenant's preliminary program will focus largely on two areas of the City's environment: the ecology, history and future of the East River, and environmental issues affecting home and neighborhood.

(iii) CEC shall operate the Environmental Center continuously and without interruption throughout the Term, and take all reasonable measures in every proper manner to promote and increase the use of the Environmental Center by the general public.

(iv) CEC shall permit access to the Environmental Center by the general public during normal business hours throughout the Term, and the public spaces thereof (which shall include toilet facilities) must be accessible to all visitors free of charge.

(v) CEC may charge reasonable admission fees for certain of its programs and exhibits.

(b) For the purposes of the foregoing Section 5.01(a)(iii), Tenant's obligation

to use the Premises "continuously" means that after Substantial Completion the Environmental Center shall be open to the public for at least six (6) hours per day for no less than two hundred sixty (260) days each calendar year for the Term of this Lease, subject to Tenant's need to temporarily close all or a portion of the Premises for renovation or repairs or such other circumstance as may be mutually agreed upon by Tenant and EDC.

(c) CEC may sublet space in the Premises for use as a café and/or a gift/bookstore, subject to CEC obtaining or causing the café operator to obtain all Required Approvals and complying with all Requirements and this Lease.

(d) CEC may use the outdoor space within the Premises around the perimeter of the Environmental Center building for plantings and associated CEC educational programs, provided that any such plantings are harmonious with the flora of the Public Access Area.

(e) Public access along the East River and along the bikeway must be maintained at all times.

Section 5.02. Development of the Premises.

(a) Tenant shall construct (in accordance with the provisions of Article 8) a building on the Premises for use as the Environmental Center, which building shall (i) neither exceed 32 feet in height nor 8,000 square feet of interior space, and its footprint shall not exceed 6200 square feet, (ii) contain office space comprising not more than 5% of the total square footage of the building, and (iii) embody "green architecture" practices, including the use of non-toxic and recycled materials and the use of energy efficient heating, cooling and lighting systems. In addition, the landscaping, paving and furniture around the Environmental Center should be consistent with the overall design of the Public Access Area, and the Environmental Center shall (x) be designed for low maintenance, and (y) include a small storage room for the Public Access Area's maintenance equipment and materials. The Environmental Center shall be fully operational in accordance with the ELC Project Schedule (as defined herein), provided, however, that in no event shall such date be after the date that is six years from the date hereof.

(b) Tenant acknowledges and agrees that it needs and is required to obtain approximately six million dollars (the **"Funds Target"**) to develop and operate the Environmental Center, and has prepared as part of the ELC Project Schedule a fundraising schedule detailing the proposed timeline with associated fundraising milestones, which shall, at a minimum, require the achievement of one milestone per year. Tenant agrees that, its failure to meet the aforementioned milestones or raise or have written commitments for at least 75% of the Funds Target by the date that is four years from the date hereof (unless EDC shall have extended the aforementioned time limit, which extension, if any, shall be for up to one year) shall be an Event of Cancellation as set forth in Section 22.01(a) hereof.

(c) The parties agree that prior to the Substantial Completion of the Environmental Center Tenant may erect an interim structure (**"Interim ELC"**) in order to maintain a presence on the Premises to establish and implement its educational programs, maintain the Public Access Area, and assist in fund raising until such Substantial Completion. Construction of the Interim ELC shall be in accordance with the provisions of Article 8.

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services necessary for the proper operation and functioning of the Premises, including, without limitation, electricity. Tenant shall pay directly to the companies supplying such utility services all charges for such utility services, as the same shall become due.

Section 4.07. No Obligation on Landlord to Provide Utility Service. Landlord shall have no obligation to provide any utility services to the Premises, and Landlord shall have no responsibility or liability in the event any such utility services are not provided to the Premises.

Section 4.08. Survival Clause for Sections 4.05, 4.06 and 4.07. The provisions of Sections 4.05, 4.06 and 4.07 of this Article 4 shall survive any termination of this Lease.

ARTICLE 5

USE AND DEVELOPMENT OF PREMISES

Section 5.01. Use of Premises. Tenant shall use the Premises to improve the same, in accordance with the Funding Agreement, the Plans and Specifications and this Lease, including, without limitation, Article 11, for use as a parking facility with accessways to and from the Flatbush Parking Lot over the Street and, from and after the Substantial Completion Date (as such term is defined in the Funding Agreement), exclusively as a no-fee public parking facility constituting a part of the Flatbush Parking Lot in accordance with the certificate of occupancy therefor and the Requirements. Tenant shall operate the Premises, or cause the same to be operated by the Operator, in accordance with the Operating Agreement or the New Operating Agreement, as applicable.

Notwithstanding the foregoing, Tenant shall not, nor shall Tenant permit the Operator or any contractor of Tenant, to do anything that interferes with the structural integrity of the parking deck contemplated by Section 37.02(b) hereof if the same is constructed.

Section 5.02. Requirements for Conduct of Business. Subject to Article 35 and Unavoidable Delays, Tenant, at its sole cost and expense, shall promptly comply with, or cause the Operator to comply with, all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or any part thereof, or to the use or manner of use of the Premises or the owners, tenants or occupants thereof, even though any such Requirement may necessitate structural changes, repairs or improvements, or the use or application of portions of the Premises for compliance therewith, and even though compliance with any such Requirement may interfere with the use and enjoyment of the Premises. If any governmental license or permit or any other Requirement shall be required for the proper and lawful conduct of Tenant's business, including, without limitation, disposal of hazardous waste materials, Tenant shall be responsible for complying with such Requirement.

Section 5.03. Unlawful Use.

(a) During the Term, Tenant shall not use, occupy, permit or suffer, and shall cause the Operator not to use, occupy, permit or suffer, the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose or in any way in violation of any of the Requirements or in such

26 Flatbush Delaware Holding

forth herein, the assignment, sublet or transfer of all or any part of Tenant's interest in this Lease shall not affect the remaining provisions of this Lease, shall not relieve Tenant of its payment obligation arising pursuant to Article 3(b) and all the rights and obligations of Landlord and Tenant hereunder shall remain in full force and effect.

ARTICLE 3: RENT

(a) Tenant shall pay base rent to Landlord commencing on the Commencement Date of One Dollar ($1.00) per annum, payable annually on the anniversary of the Commencement Date. Landlord acknowledges receipt of all such base rent in advance as of the date hereof.

(b) Tenant has heretofore reviewed and approved Landlord's plans and estimated budgets and costs for construction of the Parking Deck by Landlord. Tenant shall pay to Landlord, as additional rent, a lump sum payment of Two Million Dollars ($2,000,000) (the "Additional Rent") promptly after the date (the "Deck Completion Date") that all of the following have occurred: (i) delivery by Landlord to Tenant of (A) a temporary or permanent certificate of occupancy authorizing the use of the Parking Deck as a public parking facility and (B) certification from the Caldor Building project architect that the construction of the Parking Deck has been completed in accordance with the plans and specifications previously reviewed and approved by EDC on behalf of Tenant (the "Architect Certification"), (ii) inspection of the Parking Deck by EDC to verify such certification, provided that the failure by EDC to conduct such inspection within ten (10) business days after delivery to Tenant by Landlord of the Architect Certification shall be deemed verification of such certification, and (iii) thelater of (A) the Commencement Date or (B) August 15, 1995. Based on EDC's review of the plans, budgets, and costs for the Parking Deck, Tenant believes such amount fairly represents the value of the Parking Deck.

(c) Notwithstanding anything to the contrary contained herein, it is the intention of Landlord and Tenant that the Additional Rent payable to Landlord pursuant to subparagraph 3(b) above shall be absolutely net to Landlord without any abatement, diminution, reduction or offset whatsoever, so that upon the Deck Completion Date the entire amount of the Additional Rent scheduled to be paid pursuant to subparagraph 3(b) above shall be paid by Tenant to Landlord.

ARTICLE 4: USE

Each of Landlord and Tenant acknowledges and agrees that throughout the Term of this Lease the Parking Deck shall be used solely as a no-fee public parking facility that complies with the terms and provisions of Article 9 of the Caldor Lease attached hereto as Exhibit B, the actions, if any, certified by the New York City Planning Commission in response to the ULURP and any conditions imposed by final ULURP approval, if any, and the Unified Operation Agreement.

27 Metrotech FC Flatbush Associates

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Except as otherwise necessitated by the terms of any Sublease between Tenant, as sublandlord, and the City, as subtenant, effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as a first-class Brooklyn office building which may include retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

28 Metrotech - Bridge St.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto.

Section 23.02. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.01 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

29 Forest City, Jay St. Metrotech

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto.

Section 23.02. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.01 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

30 Metrotech - FC Myrtle Assoc.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1 Type of Use.

Except as otherwise necessitated by the terms of any Sublease between Tenant, as sublandlord, and HRA or the City, as subtenant, effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as a first-class Brooklyn office building which may include retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto.

Section 23.2 Prohibited Uses.

Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose or for any purpose (or in any way) in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

31 Forest City Pierrepont

to the date on which actual payment of the sum so overdue is received by Landlord, shall become due and payable to Landlord by Tenant on demand. No failure by Landlord to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges pursuant to this Section shall constitute a waiver by Landlord of its right to enforce the provisions hereof in any instance thereafter occurring. The provisions of this Section shall not be construed in any way to extend the grace or notice periods provided for in Article 26 hereof.

ARTICLE 9

Permitted Use, No Unlawful Occupancy

Section 9.01. Subject only to Unavoidable Delays (provided that, in the case of a casualty or condemnation, Tenant otherwise complies with its obligations under Articles 12 and 13 hereof), Tenant shall use and operate the Premises during the Lease Term solely for the construction and operation of an office building with retail and parking facilities and all uses incidental thereto.

Section 9.02. During the Lease Term Tenant shall not use or occupy the Premises nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal or extra-hazardous business, use or purpose or for any purpose or in any way in violation of the provisions set forth in Section 9.01 or Article 17 hereof, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Tenant, immediately upon the discovery of any such unlawful, illegal or extra-hazardous business, use or purpose or use or occupation in violation of Section 9.01 or

Article 17 hereof, shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any Subtenant using or occupying any portion of the Premises for any such business, use or purpose. The provisions of this Section shall not restrict Tenant's rights under Section 17.02 hereof to contest the validity of any Requirements.

Section 9.03. Tenant shall not suffer or permit the Premises or any portion thereof to be used by the public without restriction or in such manner as would, with the lapse of time, impair title to the Premises or any portion thereof, or in such manner as would, with the lapse of time, create the basis for a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 10

Construction

Section 10.01 Tenant shall perform the Construction of the New Building as follows: Tenant shall (i) have reached the stage of Construction of the New Building at which structural steel is being installed above grade on or before the first anniversary of the Commencement Date, subject to Unavoidable Delays; (ii) thereafter continue to prosecute Construction of the New Building with diligence and continuity in accordance with a development and construction schedule approved in writing by Landlord and Tenant, subject to Unavoidable Delays; and (iii) Substantially Complete the New Building on or before March 1, 1988, subject to Unavoidable Delays (however, if

32 Metrotech - Forest City Tech Plaza

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Except as otherwise necessitated by the terms of any Sublease between Tenant, as sublandlord, and the City, as subtenant, effective upon the Substantial Completion Date, Tenant shall use and operate the Premises as a first-class Brooklyn office building which may include retail and parking facilities and all uses incidental thereto, in accordance with the certificate(s) of occupancy therefor and the Requirements, and for no use or purpose inconsistent with the operation of a first-class Brooklyn office building with retail and parking facilities and all uses incidental thereto.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

33 Friedmans Market

performance by Tenant of Tenant's obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article in any instance occurring thereafter.

ARTICLE 3

USE OF PREMISES

Section 3.01. The Premises are acknowledged to be a "Market" under former Section 259 et. seq. of the New York State Agriculture and Markets Law. Tenant shall use and occupy the Premises for the operation of a retail food market including those uses permitted under former Section 259 et. seq. and current Article 22 of the New York State Agriculture and Markets Law, as well as for those additional uses as may be permitted upon the amendment of such Article 22 at that time, and for other uses incidental thereto, including those listed on Exhibit B hereto, and for no other purpose except with the prior written consent of Landlord. No lottery, lotto or other games of chance shall be sold and no franchise operations shall be permitted on the Premises without the prior express written approval of Landlord. Tenant agrees that it will not use, and will its best efforts not to permit any person to use, the Premises or any part thereof for any use or purpose in violation of this Lease, or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations including, without limitation, Market Rules. "Market Rules" means the rules and regulations relating to the operation of the Premises, as the same may be issued and amended from time to time, promulgated by the Commissioner of DSBS.

35 Ganesvoort Market (Sept 1, 1974)

This Lease shall be on the following TERMS and CONDITIONS which Lessee for itself, its successors and assigns hereby covenants, promises and agrees to and with Lessor to keep, observe and perform:

ARTICLE FIRST

Term

A. The term of this Lease shall be for thirty (30) years and shall commence at 12:01 A. M. on the date of this Lease.

B. The term of this Lease shall expire at 11:59 P. M. on the day immediately preceding the thirtieth (30th) anniversary of the commencement date.

C. The term of this Lease shall be subject to cancellation and termination as hereinafter provided in this Lease.

ARTICLE SECOND

Use of Property

A. Lessee shall use and occupy the Demised Premises only for a public market and for purposes incidental thereto. Lessee shall not use and occupy the Demised Premises for any other purpose whatsoever, except with the prior consent of the Commissioner in each instance.

B. During the term hereof, the Certificate of Incorporation of Lessee shall provide that Lessee's primary corporate purposes are the leasing and promoting of the GANSEVOORT MARKET and Lessee shall not amend its Certificate of Incorporation with respect to its corporate purposes without the prior consent of the Commissioner in each instance.

C. During the term hereof, Lessee shall not make any distribution out of earnings or profits which have not been expended

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Creates Jamaica

ARTICLE 9

PERMITTED USE; UNLAWFUL OCCUPANCY

Section 9.01 Subject to the provisions of law and this Lease and, in particular, the applicable provisions of the Development Plan, Tenant shall use the Premises exclusively for lawful uses permitted as of right under the City Zoning Resolution, as amended from time to time. Tenant shall obtain the consent of Landlord or its authorized agent prior to applying for a zoning variance, special permit, zoning text or map amendment, or other discretionary authorization which would have the effect of permitting a development other than a development which is allowable as of right under applicable law.

Section 9.02 Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use, or purpose, or for any business, use, or purpose reasonably deemed by Landlord to be hazardous, or in such manner as to constitute a nuisance of any kind (public or private) or that Landlord reasonably deems offensive by reason of odors, fumes, dust, smoke, noise, or other pollution, or for any purpose or in any way in violation of the applicable Certificate of Occupancy or of any present or future governmental laws, ordinances, requirements, orders, directions, rules, or regulations (including, but not limited to the New York City Noise Control Code and regulations issued thereunder), or which may make void or voidable any insurance then in force on the Premises. Tenant shall take, immediately upon the discovery

(e) Deposits with Recognized Mortgagee. In the event that a Recognized Mortgagee shall require Tenant to deposit funds to insure payment of Impositions or insurance premiums, the same shall be credited against any amounts required to be deposited under this Article 7 for so long as such funds are used solely to pay Impositions or insurance premiums, it being agreed that if the deposits required by a Recognized Mortgagee shall equal or exceed the amounts required to be deposited under this Article 7, then no such payments shall be required under this Article 7. The disposition of such amounts shall be governed by the applicable loan documents pursuant to which the same are deposited with such Recognized Mortgagee, *provided*, that Tenant shall notify Landlord, or cause the Recognized Mortgagee to immediately notify Landlord, of any disbursement of deposited funds, and, to the extent such funds are applied by the Recognized Mortgagee to payments other than Impositions or insurance premiums, within five (5) Business Days after demand by Landlord, Tenant shall restore sufficient funds to the account to satisfy the requirements of Sections 7.01(a) and (b) hereof.

Section 7.02 Effect of Sale or Transfer of Premises By Landlord. In the event of Landlord's sale or transfer of the Premises, Depositary shall continue to hold any moneys deposited with it pursuant to the provisions of Sections 7.01(a) and (b) hereof and shall transfer such deposits to a special account established in the name of the Person who acquires the Premises and becomes Landlord for the purposes provided in the applicable provisions of this Lease. Upon such sale or transfer, the transfer of such deposits and notice thereof to Tenant, Landlord shall be deemed to be released to the extent of the deposits so transferred from all liability with respect thereto and Tenant shall look solely to the Depositary and new Landlord with respect thereto. Landlord shall deliver to Tenant a copy of the instrument of transfer to the new Landlord. The provisions of this Section 7.02 shall apply to each successive transfer of such deposits.

Section 7.03 Effect of Termination. Upon the Expiration Date, if this Lease shall terminate, or the Term shall terminate or expire and a new lease shall not be entered into or this Lease not continued with a Recognized Mortgagee, all remaining deposits then held by Depositary, together with interest accrued thereon, shall be applied by Landlord on account of any and all sums due under this Lease and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord promptly following demand.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

(a) Tenant shall use and occupy the Premises or cause the Premises to be used and occupied upon the terms and conditions of this Lease for the sole purposes of the Project for Residential Use, Retail Use, and Community Facility Use with respect to each portion of the Premises so indicated for such use in the Project Commitments attached hereto as Exhibit D, and uses accessory thereto (the "Permitted Uses") and for no other uses and purposes. Furthermore, the Project shall, except as otherwise expressly provided in Article 16, be constructed in

accordance with the Approved Plans and Specifications, and be leased and occupied as set forth in Exhibit D. Not in limitation of any other provision of this Lease, the Residential Use component shall include housing units consistent with the requirements of the Project Commitments (including without limitation, affordable for the Term), and Tenant shall comply with the terms of the Regulatory Agreement, or any successor agreements, and the MIH Restrictive Declaration. For purposes of this Lease:

"MIH Residential Use" means use as dwellings occupied by residential tenants (and excludes transient dwelling use) pursuant to the MIH Program.

"Residential Use" means use as dwellings occupied by residential tenants (and excludes transient dwelling use) including pursuant to the Regulatory Agreement(s) and includes but is not limited to MIH Residential Use.

"Retail Use" means use for (i) sit-down restaurants and/or retail food and beverage services providing predominantly healthy food options and/or (ii) other commercial and/or recreational uses provided in "Use Group 6" of the Zoning Resolution with the prior written approval of Landlord to be given at Landlord's sole discretion; provided, however, for the Initial Term, a minimum of 21,231 net square feet (exclusive of the area allocated to parking spaces) of the space allocated to Retail Use in Exhibit D (the "Restricted Retail Space") shall be used solely for one or more sit-down restaurants and subleased to such Subtenants as are approved by Landlord in its sole discretion. Any subsequent Subtenants for the Restricted Retail Space during the Initial Term must be approved by Landlord in its sole reasonable discretion notwithstanding any provision in this Lease to the contrary; however, the requirements regarding Landlord's approval in this paragraph are subject to the provisions of Section 8.01(c) below.

"Community Facility Use" means use for day-care, after school programs, and/or for other "Community Facility" uses, as that term is defined in the Zoning Resolution, with the prior written approval of Landlord to be given at Landlord's sole discretion; provided, however, for the Initial Term, a minimum of 7,245 net square feet of the space allocated to Community Facility Use in Exhibit D (the "Restricted Community Facility Space") shall be subleased initially to such family-oriented community facility subtenant(s) as are approved by Landlord in its sole discretion. Any subsequent subtenants for the Restricted Community Facility Space during the Initial Term must be approved by Landlord in its sole reasonable discretion notwithstanding any provision in this Lease to the contrary; however, the requirements regarding Landlord's approval in this paragraph are subject to the provisions of Section 8.01(c) below.

"Non-Residential Space" means the spaces allocated to Retail Use and Community Facility Use.

"Prohibited Uses" means, individually and collectively, the following uses on the Premises or any portion thereof:

(i) the operation on the Premises of a so-called "flea market";

(ii) selling or displaying for sale any "adult printed or visual material" as defined in the definition of "Adult Establishment" under the Zoning Resolution;

(iii) use as a gambling or gaming establishment (including as an Off-Track Betting, sport gambling, casino gambling or similar establishment);

(iv) use as an office, store, reading room, headquarters, center or other facility devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (a) any political party, political movement or political candidate, (b) any religion, religious group or religious denomination, (c) any foreign government, or (d) any "cause" of a political or religious type or nature;

(v) the operation of any establishment the primary purpose or products of which are sexual in nature;

(vi) operating a so-called "head shop" or facility that sells bongs, coke spoons, roach clips and/or other drug paraphernalia; and

(vii) operating a pawn shop or auction house.

(b) Tenant shall not use the Premises or permit the Premises to be used for any other purpose other than the Permitted Uses, and in no event shall Tenant use the Premises or permit the Premises to be used for any of the Prohibited Uses or in contravention of any Requirements.

(c) The initial request from Tenant for approval of any Restricted Retail Space or Restricted Community Facility Space Subtenant shall have a heading that says "**FOR LANDLORD REVIEW AND APPROVAL**" in all bold caps and shall contain sufficient information for Landlord's consideration of such subtenant. If Landlord fails to respond after thirty (30) days from receipt of Tenant's request for approval regarding a proposed Subtenant of the Restricted Retail Space or Restricted Community Facility Space, as applicable, Tenant may send a second notice with a heading that says "**SECOND NOTICE FOR LANDLORD REVIEW AND APPROVAL**" in all bold caps to Landlord requesting Landlord's approval thereof and Landlord shall respond to the second notice within ten (10) Business Days of receipt thereof. Notwithstanding the foregoing, if Tenant is unable by one (1) year from: (i) with respect to the initial subleasing of the Restricted Retail Space or Restricted Community Facility Space, as applicable, the date of Substantial Completion; and (ii) with respect to any subsequent subleasing of the Restricted Retail Space or Restricted Community Facility Space, as applicable, the date of expiration or termination of the prior applicable sublease (including any holdover tenancy as applicable); to obtain Landlord's approval of a proposed Subtenant for the Restricted Retail Space, Landlord's approval of Tenant's proposed Subtenant pursuant to Section 8.01(a) shall no longer be required, but such subleasing shall still be subject to all other requirements in this Lease, including without limitation, the requirements of Article 14 hereof.

Section 8.02 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any Person. Tenant shall obtain and maintain (or require any Subtenant to obtain and maintain) in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's (or any Subtenant's) trade or business and the use of the Premises, and shall comply (or require any Subtenant to comply) with any other applicable Requirements for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use. Tenant shall not use or occupy the Premises or, subject to Section 14.08 hereof, permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal, or hazardous business, use or purpose, or in violation of Section 8.01 or Article 19 hereof, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Promptly, upon the discovery of any unlawful, illegal or hazardous business, use or purpose, or use in violation of Section 8.01 or Article 19 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenant or occupant, as applicable, using a portion of the Premises for any such unlawful, illegal or hazardous business, use or purpose or in violation of Section 8.01 or Article 19 hereof. The provisions of this Section 8.03 shall not restrict Tenant's rights to contest any applicable Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 No Representations or Warranty by Landlord.

(a) Neither Landlord nor Lease Administrator has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor Lease Administrator, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and Lease Administrator, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

Section 8.05 Other Commitments.

(a) HireNYC: Permanent. Landlord and Lease Administrator recognize the importance of creating employment opportunities for low-income persons, enabling them to participate in the City's economic growth. To this end, Tenant is required to participate in the HireNYC: Permanent program and to use good faith efforts to achieve the hiring and workforce development goals and to comply with program requirements annexed as Exhibit I hereof.

(b) Labor Peace. Tenant acknowledges and agrees, on behalf of itself and its Affiliates, that Tenant has received "financial assistance" and that portions of the Premises may be occupied by a "covered developer" as defined in Executive Order No. 19 (2016) – Labor Peace for Retail Establishments at City Development Projects ("E.O. 19"). Tenant shall comply with all applicable requirements of E.O. 19 and covenants with respect thereto as set forth in Section 21.06 hereof.

(c) Living Wage/Prevailing Wage. Tenant acknowledges and agrees, on behalf of itself and its Affiliates, that Tenant has received "financial assistance" as defined in the LW Law and that it is a "covered developer" under and as defined in the Prevailing Wage Law. Tenant shall comply with all applicable requirements of the LW Law and the Prevailing Wage Law and covenants with respect thereto as set forth in Section 21.07 hereof.

(d) AMI Modification. In case of any modifications to Legal Rents or Actual Rents (as such terms are defined in the Initial Regulatory Agreement) required under the Initial Regulatory Agreement, Tenant shall so notify Landlord within 30 days of amending such Initial Regulatory Agreement.

Section 8.06 Project Report. Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Landlord or Lease Administrator may reasonably request from time to time (but not more than twice during any twelve month period) upon not less than sixty (60) days' prior written notice, Tenant shall deliver a written report to Landlord in form reasonably acceptable to Landlord (the "Project Report") setting forth the status of the Project, and the manner in which Tenant is complying with the Project Commitments and Required Uses as of the end of the immediately preceding calendar year (or, in the case of a Project Report otherwise requested by Landlord or Lease Administrator, as of the date of such request). The Project Report shall, among other things, contain Tenant's certification as to whether (i) the Premises are in compliance with the Project Commitments and the Permitted Uses, and (ii) in Tenant's reasonable and good faith judgment, Tenant anticipates that Tenant will be able to comply timely with any Project Commitments and/or use and operating requirements to be performed in the upcoming Lease Year. In the event that Tenant shall be unable to provide the required certifications, the Project Report shall identify any areas of non-compliance with specificity, and explain the reasons for such non-compliance. Landlord shall endeavor to review each Project Report and submit any questions thereto or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Project Report.

ARTICLE 9
INTENTIONALLY OMITTED

Hunts. Point Co-Op Market

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(e) "Corporation Counsel" means the Corporation Counsel of The City of New York.

(f) "Demised Premises" means all the property and rights as described aforesaid in this Lease.

(g) "Herein", "hereof", "hereunder", "hereto", and words of similar import refer to this Lease as a whole and not to any particular article, section or other subdivision.

(h) "Lessee" means HUNTS POINT COOPERATIVE MARKET, INC., a New York corporation.

(i) "Lessor" means THE CITY OF NEW YORK.

(j) Reference to an officer, department, agency or other governmental unit of The City of New York includes his or its duly authorized nominees, designees or successors discharging his or its present or future duties.

(k) An article followed by a number refers to an article of this Lease.

ARTICLE 2

Use of Property

Lessee will use the demised premises for a wholesale meat market ("Market") and other related uses incidental thereto. Lessee will not use the demised premises for any other purpose except with the prior written approval of the Commissioner in each instance, which written approval shall not be unreasonably withheld. In addition to subleasing to cooperative members of Lessee for their use which will not be in violation of this paragraph, Lessee may sublease a portion of the demised premises not to exceed four (4%) per cent of the total square footage of the Market for general office use (including without limitation to accountants, lawyers, insurance and food brokers, trucking companies, data processing companies), restaurant, and lunch stand

facilities, a laundry, barber shop, work clothes and butcher supply stores, and similar type stores, primarily to service the tenants of the Market, and for no other purpose except with the prior written approval of the Commissioner in each instance, which written approval shall not be unreasonably withheld, provided, however, that Lessee shall not sublease any portion of that space to a bank except with the prior written approval of the Commissioner.

ARTICLE 3

Assignment or Mortgage

Lessee shall not at any time assign, sublet other than as provided next above, mortgage or pledge this lease or any part thereof, or in any way charge or encumber the rights or property granted herein or any part thereof, or issue or grant any permit or license to use the property or any part thereof to non-cooperative members, without the prior written consent of the Commissioner and approval of the Board of Estimate, except that the approval of the Board shall not be required for subleases. When required, such consent shall provide for the amount of rental to be charged by the Lessee for any subletting of any demised property or any part thereof or the granting of any permit to use the said demised property or any part thereof by persons other than the Lessee. It is further provided, nevertheless, that such consent of Lessor to any subletting of the demised property or any part thereof or the granting of any permission to use the said demised property or any part thereof by persons other than Lessee, except as provided in Article 2 hereof, shall in any event be upon the express condition that any rental, commissions, premiums, or other bonuses charged or received by Lessee in excess of the rental provided in the aforesaid written consent and all other profits or gains in excess of such rental realized by each such

38 Hunts Point Terminal Produce Coop

of said delinquent installment shall be charged. Any such additional two percent (2%) late charge shall be payable immediately following the last day that a succeeding rental payment can be paid without incurring a late charge. In order for any late charge to be valid, Tenant must be billed therefor within six (6) months of its accrual. No failure by Landlord to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article in any instance occurring thereafter.

Section 2.04. No Abatement Or Set-Offs And Additional Rent. Tenant shall pay the Annual Rental, as increased pursuant to this Lease, without demand or notice and without abatement, deduction, counterclaim or set-off, and will similarly pay, as additional rent, all other payments which Tenant in any of the provisions of this Lease assumes or agrees to pay, and, in the event of any non-payment thereof, Landlord shall have (in addition to all other rights and remedies) all the rights and remedies provided herein or by law in the case of non-payment of rent. All installments of Annual Rental when paid shall be made at the office of the Landlord indicated above Attn.: Bureau of Accounts. Annual Rental hereunder shall be absolutely net to Landlord, and Landlord shall not be obligated to pay any costs, expenses or charges of any kind or nature relating to the Demised Premises, except as shall be hereafter provided with respect to Infrastructure.

ARTICLE 3

USE OF PREMISES

Section 3.01. Tenant shall use and occupy the Demised Premises

solely for the selling, buying, receiving, brokering, handling (including packaging) and distribution of all agricultural products and ancillary uses, including truck storage and parking, restaurants, banking facilities, barber shops, union offices, tenant offices, government offices, the sale of soft goods and hardware to Tenant, its members and their employees, and similar uses designed to serve the reasonable needs of Tenant and its members, which ancillary uses shall occupy no more than fifteen percent (15%) of the aggregate floor area of the buildings on the Demised Premises, and for no other uses. Tenant agrees that it will not use or permit any person to use the Demised Premises or any part thereof for any use or purpose in violation of this Lease, or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations. The Demised Premises are acknowledged to be a "market" under § 259 et seq. of the New York Agriculture and Markets Law. In exercising its regulatory authority over the Demised Premises as a market pursuant to § 704 of the New York City Charter, the Landlord shall apply only the Rules and Regulations attached hereto as Exhibit C and all amendments thereto as the same shall have been promulgated by the Commissioner of Markets in a regulatory capacity under Sections 269 and 270 of the Agriculture and Markets Law.



ARTICLE 4

IMPOSITIONS AND UTILITIES

Section 4.01. Payment of Impositions. (a) Obligation to Pay Impositions. Tenant shall pay, in the manner provided in Section 4.01(c) hereof, all Impositions that at any time are, or, if the Demised Premises or any part

KAS Production Gr LLC / New Stage LLC

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damages for such Default or Event of Default, the uninsured but insurable amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

USE OF THE PREMISES

Section 23.01. Permitted Uses. Subject to the provisions of law, the Deed, the Master Lease and this Lease, Tenant shall use and operate the Premises through the Term as and for a television, motion picture, radio, audio and visual film and tape production, broadcasting, and cable facility and ancillary office space, and ancillary parking, in accordance with the Certificate of Occupancy therefor, the Master Lease and the Deed, and for no other purpose without Landlord's prior written consent.

Section 23.02. Prohibited Uses.

(a) Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose, or for any purpose, or in any way, in violation of the provisions of Section 23.01 above or Article 16 hereof or the Certificate of Occupancy for the Building, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Promptly after its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of the Certificate of Occupancy for the Building or this Article 23 or Article 16 hereof, or the Master Lease or the Deed, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business, including, without limitation, disposal of Hazardous Substances, Tenant shall be responsible for and shall procure and maintain such license or permit. Tenant shall not cause or permit, as the result of any intentional or unintentional act or omission on the part of Tenant, its agents, employees, tenants, subtenants or other occupants of the Premises to release Hazardous Substances in or from any portion of the Premises in violation of any Environmental Laws. "Hazardous Substance" shall mean "solid waste" or "hazardous waste", "hazardous material", "hazardous substance", and "petroleum product" as defined in the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Material Transportation Act, the Federal Water Pollution Control Act and the Superfund Amendments and Reauthorization Act of 1986, any laws relating to underground storage tanks, and any similar or successor federal law, state law or local statutes and ordinances and any rules, regulations and policies promulgated thereunder, as any of such federal, state and local statutes, ordinances and regulations may be amended from time to time (collectively, "Environmental Laws"). Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants, occupants, invitees, licensees and permittees using a portion of the Premises for any unlawful or illegal business, use or purpose or in violation of the Certificate(s) of Occupancy for the Building or this Article 23 or Article 16 hereof, or the Master Lease or the Deed.

(b) Tenant shall not suffer or permit the Premises or any portion thereof to be

used by the public without restriction or in such manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental as due hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord;

(b) if Tenant shall fail to Commence Construction of the Building on or before the Construction Commencement Date (subject to the period of Unavoidable Delays);

(c) if Tenant shall fail to Substantially Complete the Construction of the Building, on or before the Scheduled Completion Date (subject to the period of Unavoidable Delays);

(d) if Tenant shall enter into (or permit to be entered into) an assignment, Mortgage or Sublease or any other transaction conveying any interest in this Lease or the Premises without compliance with the provisions of this Lease;

(e) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of twenty (20) days after Landlord's notice thereof to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such twenty (20) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within the twenty (20) day period and shall diligently and continuously prosecute the same to completion);

(f) to the extent permitted by law, if Tenant shall admit, in writing, that it is unable to pay its debts as such become due;

(g) to the extent permitted by law, if Tenant shall make an assignment for the benefit of creditors;

(h) to the extent permitted by law, if Tenant shall file a voluntary petition under Title 11 of the United States Code or if such petition shall be filed against Tenant and an order for relief shall be entered, or if Tenant shall file a petition or an answer seeking, consenting to or acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, state or other bankruptcy or insolvency statute or law, or

40 Kaufmann Astoria Studios

or premiums not paid, but Landlord also shall be entitled to recover, as damages for such breach, the uninsured amount of any loss and damages, costs and expenses of suit, including reasonable attorneys' fees, suffered or incurred by reason of damage to or destruction of the Premises.

ARTICLE 22
NO ABATEMENT OF RENTAL

Except as may be otherwise expressly provided herein, there shall be no abatement, diminution or reduction of Rental payable by Tenant hereunder or of the other obligations of Tenant hereunder under any circumstances.

ARTICLE 23
PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Subject to the provisions of law and this Lease, Tenant shall use the Premises as and for (1) a motion picture, television, audio and visual film production facility; (2) public educational and cultural facilities related to motion picture and television film production; and (3) ancillary and associated uses to the uses specified in (1) and (2) above, including, without limitation, office space, in accordance with the certificate of occupancy therefor, and for no other purpose without Landlord's consent which shall not be unreasonably withheld or delayed.

Section 23.02. Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, or for any business, use or purpose reasonably deemed by Landlord to be hazardous, or in such manner as to consitute a nuisance of any kind (public or private) or that Landlord reasonably deems offensive by reason of odors, fumes, dust, smoke, noise or other pollution, or for any purpose or in any way in violation of the certificate of occupancy or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations (including, but not limited to the New York City Noise Control Code and regulations issued thereunder), or which may make void or voidable any insurance then in force on the Premises. Tenant shall take immediately upon the discovery of any such unlawful, illegal or hazardous use all necessary steps, legal and equitable, to compel the discontinuance of such use and to oust and remove any Subtenants guilty of such unlawful, illegal or hazardous use.

Section 23.03. Tenant shall not suffer or permit the Premises or any portion thereof to be used by the public without restriction or in such manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner

as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 24
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Each of the following events (except as limited by Sections 10.03, 42.20 and 42.22 hereof) shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to pay any installment of Base Rent, Tax Rent or Additional Rent after same shall be due and payable and within ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to make any other payment of Rental required to be paid by Tenant hereunder for a period of ten (10) days after notice thereof from Landlord to Tenant;

(c) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of twenty (20) days after written notice thereof by Landlord to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such twenty (20) day period, in which case no Default shall be deemed to exist as long as Tenant shall have commenced curing the same within such twenty-day period and shall diligently and continuously prosecute the same to completion);

(d) if Tenant shall vacate or abandon the Premises or any substantial portion thereof;

(e) if this Lease or the estate of Tenant hereunder shall be assigned, subleased, transferred, mortgaged or encumbered without compliance with the provisions of this Lease applicable thereto;

(f) if a motion picture, television, audio and visual production facility shall not be continuously operating after Completion of the Construction and Tenant shall not be diligently pursuing subtenants to use the facility, except for Unavoidable Delays and periods in which Restoration is being diligently pursued. For the purposes of the previous sentence, "continuously operating" shall mean that the sound stages located on the Premises after Completion of the Construction during any Lease Year shall have been in use thirty-three and

KFI Food Distributors

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substantially completed and is suitable for the purpose of this letting; or

(2) on the date when Lessee commences to use these premises or any portion thereof in connection with its business, whichever of the dates set forth in (1) or (2) above is earlier, subject to termination and cancellation as hereinafter provided; provided, however, that Lessee may enter the premises for the purposes of performing the work referred to in Article "Eight" hereof and of installing fixtures and appliances prior to the commencement of the term of this lease.

ALL that certain property, situate in the Borough of the Bronx, County of Bronx, City and State of New York, as described in Exhibit "A", attached hereto and made a part hereof, and as shown outlined in red on the print attached hereto and made a part hereof.

On the following TERMS and CONDITIONS which Lessee for itself, its successors and assigns hereby covenants, promises and agrees to and with Lessor to keep and perform.

Use of Property

FIRST: Lessee will use the demised premises for the manufacture, processing, and distribution, of frozen and other foods, storage incidental thereto, and related uses incidental or accessory thereto. Lessee will not use the demised premises for any other purposes except with the prior written approval of the Administrator in each instance.

Lessor makes no representation as to the legality of the use of the demised premises for Lessee's intended purpose. In the event any use or proposed use is declared illegal by a court of competent jurisdiction, Lessee covenants and agrees that Lessor, its agents, officers,

employees and the Administrator, or any person whatsoever, shall not be liable for any damage arising out of or related to such illegal use or proposed use.

Assignment or Mortgage

SECOND: Lessee shall not at any time assign, sublet, mortgage or pledge this lease or any part thereof, or in any way charge or encumber the rights or property granted herein, or any part thereof, or issue or grant any permit or license to use the property or any part thereof, without the prior written consent of the Administrator, and approval of the Board of Estimate, except that the approval of the Board shall not be required for subleases. Any such consent shall provide for the amount of rental to be charged by the Lessee for any subletting of the demised property or any part thereof or the granting of any permit to use the said demised property or any part thereof by persons other than the Lessee. It is further provided, nevertheless, that such consent of Lessor to any subletting of the demised property or any part thereof or the granting of any permission to use the said demised property or any part thereof by persons other than Lessee, shall in any event be upon the express condition that any rental, commissions, premiums, or other bonuses charged or received by Lessee in excess of the rental provided in the aforesaid written consent and all other profits or gains in excess of such rental realized by each such subletting shall be deemed and considered to be received for Lessor and shall be automatically the property of Lessor, and

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ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use. Tenant shall use and occupy the Premises for the development, storage and use of a maritime-dependent distribution facility for cementitious materials, aggregate, gypsum-related products and other products and materials used in the construction industry. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord, to be given at Landlord's sole discretion, which approval shall not be unreasonably delayed. Landlord represents that Tenant's intended use does not violate zoning or other restrictions imposed by existing law, rules and regulations or any such laws, rules or regulations presently under consideration by the City.

Section 9.02. Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 9.03. Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any subtenant using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause, damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 9.04. No Representations or Warranty by Landlord.

(a) Except as provided in Section 9.01 above, neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Except as provided in Section 9.01 above, neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes; it being understood, however, that neither Landlord, Lease Administrator nor Apple have any knowledge or information that the intended or

permitted use of the Premises hereunder is contrary to law. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator and Apple, and their respective directors, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

ARTICLE 10

EASEMENTS

Section 10.01. Municipal Easement. Landlord hereby reserves for itself and Lease Administrator, and their respective officers, employees, agents, servants, representatives and invitees, an easement for ingress and egress to, from and over the Premises for the following purposes: (i) to maintain, replace and repair existing municipal facilities located within the Premises, if any; (ii) to maintain its fire communications facilities, sewers, water mains and street sub-surface below the Premises, if any; and (iii) to access the bulkhead area and the pier and other facilities adjacent to the Premises.

Section 10.02. Landlord, and Lease Administrator and their respective designees shall have the right at all times to enter upon the Premises with workers, materials and equipment to construct, reconstruct, lay, relay, maintain, operate and inspect Landlord's and/or Lease Administrator's facilities in or adjacent to the Premises. The easement reserved hereby is in addition to any other easement, right-of-way or other right that constitutes a Title Matter as described in Exhibit B hereto.

Section 10.03. Neither Landlord's nor Lease Administrator's entry onto or permitted use of the Premises shall materially interfere with Tenant's use of the Premises.

ARTICLE 11

INSURANCE

Section 11.01. Insurance Requirements. At all times during the Term, Tenant, at its sole cost and expense, shall carry and maintain in full force and effect, or cause to be carried and maintained in full force and effect, insurance coverage of the following types or insuring the described risks and in the minimum limits set forth below:

(a) Liability Insurance. Commercial General Liability insurance protecting against all liability with respect to the Premises and the operations related thereto, whether conducted on or off the Premises, for bodily injury, death, personal injury and property damage, in an amount not less than Three Million Dollars ($3,000,000) per occurrence, and designating Tenant as "named insured," and Landlord, Lease Administrator and Apple as "additional

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ARTICLE 5

CONDITIONS PRECEDENT

Section 5.01. **Conditions Precedent.** Notwithstanding anything contained in this Lease to the contrary, Landlord and Tenant hereby agree that the obligation of Landlord to deliver the Combined Premises to Tenant pursuant to this Lease, and the other obligations of Landlord under of this Lease are conditioned upon and subject to:

(a) **Mayoral Authorization.** The issuance of a Mayoral Authorization pursuant to Section 384(b)(4) of the Charter of the City of New York authorizing the City to lease the Combined Premises to EDC for the purposes contemplated by this Lease.

(b) **Governmental Review and Approval.** Approval of Tenant in accordance with the applicable governmental review and approval process including, but not limited to, approval of Tenant based upon the information provided in the required VENDEX clearance forms, Business Disclosure Statement, or Business Entity Questionnaire and the Principal Questionnaire, whichever is applicable. The aforementioned documents shall be completed by Tenant and submitted to Landlord prior to or upon execution of this Lease. In the event, subsequent to the execution of this Lease, approval is not granted by the applicable authority, this Lease shall be terminated upon thirty (30) days' notice to Tenant. Tenant represents that the information provided in the required VENDEX clearance forms is true and accurate. In the event there is a material change in the information provided therein, Tenant shall notify Lease Administrator within fifteen (15) days of such change.

(c) **Assignment Agreement.** Execution and delivery by EDC and Tenant of the Assignment Agreement.

(d) **Annual Base Rent.** Payment by Tenant to Lease Administrator of Annual Base Rent for the first month of the Term.

(e) **Security Deposit.** Payment by Tenant of the Security Deposit

(f) **Administrative Fee.** Payment by Tenant of an Administrative Fee in the amount of Forty Thousand Dollars ($40,000).

ARTICLE 6

USE

Section 6.01. **Permitted Use.** Subject to all Requirements, Tenant may enter upon, occupy and use the Combined Premises solely for the purposes of operating and maintaining a Parking Facility for use by a fleet of school buses of approximately three hundred forty five (345) in number and by Tenant's employees and for no other use or purpose.

Section 6.02. **Licenses and Permits.** This Lease does not grant authority for the performance of any construction work or any other operation or use which may require any permit or approval from any Governmental Authority or private party. Tenant shall obtain and

maintain in full force and effect during the Term any governmental license or permit, and shall comply with any other Requirement imposed or mandated by any Governmental Authority, for the proper and lawful operation of the Combined Premises by Tenant for the purposes authorized by this Lease.

Section 6.03. **Prohibited Uses.** During the Term, Tenant shall not use, occupy, permit or suffer, the Combined Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose, or in any way in violation of any term, covenant or condition of this Lease, or in such manner as may make void or voidable any insurance policy required to be maintained pursuant to **Section 13.1** hereof. Immediately, upon the discovery of any such unlawful or illegal business, use or purpose, or violation of any of terms, covenants or conditions of this Lease, or such other use as may void or make voidable any insurance required hereby, Tenant shall take all necessary and appropriate action, legal and equitable, to discontinue or compel the discontinuance thereof. Tenant shall not keep, or permit to be kept, on the Combined Premises, or any part thereof any article, object, item, substance or thing that may cause, in Landlord's sole reasonable discretion, damage to the Combined Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Combined Premises or any part thereof.

Section 6.04. **No Representations or Warranty by Landlord.**

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Combined Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Combined Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Combined Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, Tenant agrees that (1) neither Landlord, Lease Administrator, nor Apple, nor any of their respective directors, officers, employees, agents, servants, representatives and invitees shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (2) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator Apple and their respective directors, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with, Section 6.3 hereof.

ARTICLE 7

EASEMENTS

Section 7.01. **Municipal Easement.** Landlord hereby reserves for itself, Lease Administrator and Apple, and their respective directors, officers, employees, agents, servants, representatives and invitees, with respect to the Combined Premises an easement and a right of access: (a) to enter upon the Combined Premises to maintain, replace and repair existing

ARTICLE 4

Impositions

Section 4.01. Lessee shall and will, during the Term Hereof, pay and discharge, as Additional Rent, all Impositions, including but not limited to all such taxes (except occupancy taxes and real estate taxes on the land of the Demised Premises), charges for public utilities, charges for water, sewer rents and charges and all other license and permit fees and all other governmental charges and payments, extraordinary as well as ordinary, whether foreseen or unforeseen, as shall, during the Term Hereof, be laid, levied, assessed or imposed upon, or become due and payable, or liens upon the said Demised Premises, or any part thereof, or any appurtenances thereto, the leasehold estate hereby created, the sidewalks or streets in front of or adjoining the Demised Premises or any vault or vaults thereunder, if any, by virtue of any present or future law, order or ordinance of the United States of America, or of the City, County or local government, or of any department, office or bureau thereof, or any other governmental authority. The provisions of Article 3, Section 3.03 shall be applicable to any Impositions.

Section 4.02. Nothing herein contained shall require Lessee to pay municipal, state or federal income taxes, capital levy, estate, succession, inheritance, corporate franchise or transfer taxes of Lessor.

ARTICLE 5

Use; Construction; Alterations and Additions; Non-Discrimination

on 5.01. It is understood that the the Premises by the City of New York and the authorization of its use by the Board of Estimate of The City of New York, were for the express purpose of creating a light industrial facility to supply aviation services within the City of New York, in order to promote and increase employment opportunities within The City of New York. It is, therefore specifically agreed that any sublease of the Demised Premises or any assignment of this Lease, except to a Leasehold Mortgagee as security, shall be solely for the purposes of providing air cargo services, air commissary services, other similar air services and for ancillary aviation industry

purposes, and the parties agree that the Demised Premises shall be subleased or assigned for and occupied for such purposes only.

It is further understood that this Lease to Lessee is made for purposes of development only and that Lessee shall use the Demised Premises for no purposes other than the development thereof in accordance with this Article and the subletting thereof in accordance with Article 13 of this Lease, to occupants who will use and occupy the same for the purposes set forth in this Section.

Section 5.02.

(1) (a) Lessee agrees that the execution of this Severance Lease No. 3 is conditioned upon the due and timely financing, construction and completion of the first class industrial structure soon to be constructed pursuant to the aforementioned Plans and Specifications duly approved by Lessor, and as set forth in Schedules "B" and "C" annexed hereto and made a part hereof, on the Demised Premises shown and described on Schedule "A" hereto annexed, and to be known as Building No. 3. For the purposes of this Section "Timely Completion" shall mean the substantial completion of the construction of said building soon to be started, within two (2) years, including external roadways, pavements and ramps.

For the purposes of this Section "Substantial Completion" shall mean substantial construction and completion of said structure in such manner that same can be fully occupied and used by Lessee without interference with its operations, and that a Temporary Certificate of Occupancy shall have been issued permitting Lessee to use and occupy the entire Demised Premises for the purposes intended.

Lessee further agrees, subject to the occurrence of causes not within its control, to complete each and every further item of work necessary to fully complete said structures within two (2) years after the commencement of the Term Hereof as above provided for, and will obtain a permanent Certificate of Occupancy permitting Lessee to use and occupy the entire Demised Premises for the purposes intended, within sixty (60) days thereafter.

(b) Lessee shall, in accordance with its approved Plan, install on the premises hereby demised in this Severance Lease No. 3, all necessary site improvements, including, without limitation, sub-surface work, fill, grading, piling, streets, sanitary and storm water sewers, sewer manholes, junction chambers, basins and culverts, street lighting, water mains and accessory facilities, police telephone and fire alarm systems and landscaping. Any sublease given by Lessee hereunder, shall provide that no part of the Demised Premises may be used for outside loading, outside parking of trucks or outside storage. Upon the prior written consent of Lessor and the Commissioner

payable to Landlord as liquidated damages for the administrative costs and expenses incurred by Landlord by reason of Tenant's failure to make prompt payment and said late charges shall be payable by Tenant without notice or demand. No failure by Landlord to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article in any instance thereafter occurring.

Section 2.05 Tenant will pay the Annual Rental and the PILOT, as increased pursuant to this Lease, without demand or notice and without abatement, deduction or set-off, and will similarly pay, as additional rent, all other payments which Tenant in any of the provisions of this Lease assumes or agrees to pay, and, in the event of any non-payment thereof, Landlord shall have (in addition to all other rights and remedies) all the rights and remedies provided herein or by Law in the case of non-payment of rent.

ARTICLE 3

USE OF PREMISES

Section 3.01 Tenant ~~shall~~ use and occupy the Demised Premises solely for a wholesale food processing and distribution facility and market uses described in the New York State Agriculture and Market Law §259 and for no other use. Tenant may deal in other commodities related to the uses described herein provided that such other commodities shall

not exceed fifteen percent (15%) of the total volume of Tenant's annual sales. Tenant shall not use any part of the Demised Premises as a commercial parking lot or charge any fees for parking on the Demised Premises. Tenant agrees that it will not use or permit any person to use the Demised Premises or any part thereof for any use or purpose in violation of this Lease, the certificate of completion, or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations.

ARTICLE 4

UTILITIES

Section 4.01 Tenant shall be responsible for obtaining all utility services necessary for the proper operation and functioning of the Demised Premises, including, without limitation, gas, water, heat, electricity, air conditioning and telephone service. Tenant shall pay directly to the companies supplying such utility services all charges for such utility services, as the same shall become due. Tenant shall install meters for all such utility services.

Section 4.02 Landlord shall have no obligation to provide any utility services to the Demised Premises and Landlord shall have no responsibility or liability in the event any such utility services are not provided to the Demised Premises.

Section 4.03 Tenant shall deposit upon execution and delivery hereof, with the City Collector, the sum of $1000

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Permitted Uses.

(a) The Premises shall be used and operated by Tenant, effective upon the Substantial Completion Date, as a multilevel entertainment and retail facility, including a multiplex cinema as well as retail stores and other entertainment facilities (which may include restaurants, bars, food and beverage services and the Parking Garage). Tenant may: (i) use the underground portion of the Building for office, retail and/or storage facilities. In any event, the Premises shall be used only in accordance with the TCO(s) for the New Building, and for no other use or purpose inconsistent with the uses set forth above.

(b) Prior to beginning excavation for the foundation of the New Building, Tenant may at its option use the Premises for surface parking. If Tenant so uses the Premises, it shall pay to Landlord on the first day of each calendar month 25% of any net profit from parking activity actually received by Tenant or an Affiliate during the preceding calendar month. Such payments shall be part of Rental. "Net profit" for this purpose shall mean the excess of revenues of Tenant and Affiliate from the parking operation over the following and only the following expenses of Tenant and Affiliates of maintaining the Premises during the pre-excavation period: (i) PILOT, (ii) erection of a project sign on the Premises and (iii) expenses of the parking operation itself such as wages for attendants, insurance particular to the parking operation, etc. The profit sharing provisions of this paragraph (b) shall with respect to profits from pre-construction surface parking supersede the provisions of Section 3.03(b) hereof, so that no annual payment will be due in confection therewith.

(c) Tenant shall develop and operate the Premises in accordance with the requirements of the Urban Renewal Plan, a copy of which is annexed hereto as Exhibit H and made a part hereof. Notwithstanding any provision to the contrary in this Lease or in any other document, the requirements of this Section 23.01(c) shall survive until the date upon which the Plan expires by its own terms.

Section 23.02. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for, any unlawful or illegal business, use or purpose, or for any purpose, or in such manner as to constitute a nuisance of any kind (public or private), or in any way in violation of the provisions of Section 23.01 above or Article 16 hereof or any TCO for the Premises, or which involves a dangerous or noxious trade or business, or arcades (except as ancillary to a cinema), slot machines games rooms, billiard halls, gun repair, pornography or other similar adult uses or physical culture establishments of any kind (other than bona fide health and fitness clubs), or for discotheques or cabarets or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Promptly after its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of any TCO for the Premises or this Article 23 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for any unlawful or illegal

business, use or purpose or in violation of any TCO for the Premises or Section 23.01 or Article 16 hereof.

MDD Development - Water Club)

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liability incurred by Tenant to Landlord under this Lease, provided that the application of any portion of the Security Deposit to the cure of any such Default or Event of Default shall not be deemed to have cured such Default or Event of Default unless the entire outstanding amount due or damages suffered by Landlord, as the case may be, shall have been paid in full.

Section 7.05. Return of Security Deposit. The Security Deposit or such portion thereof remaining after any application of the Security Deposit in accordance with Section 7.04, shall be returned to Tenant within ninety (90) days after the Expiration Date or sooner termination of this Lease, together with interest, if any, accrued thereon, less an amount, to be retained by Landlord, equal to one percent (1%) per annum of the amount of the Security Deposit.

ARTICLE 8

INTENTIONALLY OMITTED

ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use.

(a) Tenant shall use and occupy the Premises for the operation and maintenance of a public access area and restaurant. The restaurant comprises two barges and an upland structure. The two barges may be used for eating; drinking and incidental live or recorded musical entertainment. The barges may be used for special events and catering at which live musical entertainment or recorded music and dancing shall be allowed without restriction provided that at such special events and catering admission to that barge shall not be to the general public, but only to specific groups by reservation. All musical entertainment shall further be conditioned upon compliance with the provisions of Article 42 of this Lease. Any other mode of entertainment shall require the prior approval of Landlord, which approval shall not be unreasonably withheld, delayed or conditioned, provided such entertainment does not constitute a nuisance or disturb any residential or commercial tenants in areas surrounding the Premises. Such approval shall be deemed granted if Landlord fails to respond to any written requests for approval within ten (10) days after such requests is made. Advertising for special events and catering shall not be to the general public but only to specific groups. Neither barge shall be used as a membership club. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval, which approval Landlord may grant or refuse in it sole discretion. Tenant shall not permit any of its agents, employees, licensees or invitees to deprive any member of the public access to the public areas of the Premises.

(b) Tenant shall be permitted to use the area of the Premises designated as the "Parking Area" on the Sullivan Work Diagram that is attached hereto as Exhibit F (the "Parking Area") for parking of automobiles and other motor vehicles of its customers and suppliers.

(c) Landlord makes no representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use is determined to be illegal by a court of competent jurisdiction, Tenant agrees that Landlord, Lease Administrator, Apple and their respective agents, officers, employees, or any person whatsoever, shall not be liable for any damages arising out of or related to such illegal use or proposed use.

(d) In the event any use is determined to be illegal by a court of competent jurisdiction, the Tenant may, may either cancel this Lease or cure such illegality within one hundred and eighty (180) days after final determination by such court of competent jurisdiction. Landlord will agree to cooperate with Tenant in such process but at Tenant's sole cost and expense.

(e) In the event of any such determination of illegality by final order of a court of competent jurisdiction, the Tenant may terminate this Lease by giving notice of termination to the Landlord within one hundred eighty (180) days after a final order of a court making such determination and Tenant shall have no further obligations under this Lease after the date specified in such notice of termination, except for the accrued obligations and those obligations which survive the termination or expiration of this Lease.

(f) The parties agree, as a condition of this Lease, that a portion of the Premises designated as a public access area on the diagram attached hereto as Exhibit F, which area shall not be less than 12,000 square feet (the "Public Access Area"), shall, at all times during the Term, be made available for and used exclusively as a public access area for use by the general public (unless and to the extent such access is temporarily prevented or limited and the party responsible for any such prevention or limitation of access has obtained all necessary governmental consents and approvals) provided, however, that the Public Access Area shall not be used for commercial purposes, except in connection with any such temporary prevention or limitation described above. The Public Access Area shall be constructed and maintained during the entire Term by Tenant at its sole cost and expense. It shall be available for use by the general public in such a manner as will conform to that lawful usage made of all public streets, sidewalks, and areas in The City of New York between the hours of 6:00 AM and 12:00 midnight, provided that such usage shall not be detrimental to or unduly interfere with neighboring residents or the operation of the restaurant. Tenant shall have at least one employee on the Premises at all times.

Section 9.02. Requirements for Conduct of Business. This Lease does not grant any permit, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 9.03 Use of Bulkhead for Dockage Purposes. Tenant shall be permitted to use the bulkhead area located north of the Barges for purposes of docking of vessels for its customers upon the terms and conditions set forth below. Tenant specifically agrees that the bulkhead area south of the Barges shall not at any time be used for the docking of any vessels.

(a) Transient Usage. The dockage of vessels along the bulkhead shall be on a transient basis only. "**Transient**" is defined as (i) the landing of vessels of restaurant customers for a period not to exceed six (6) hours, (ii) the landing of on-board catering vessels for a period not to exceed six (6) hours, (iii) the overnight berthing of vessels for a period not to exceed one week, and (iv) vessels whose length exceeds three hundred (300) feet shall berth for a period not to exceed four (4) days. Landing is herein defined as an opportunity to embark and disembark passengers.

(b) US Coast Guard Certificate of Inspection. If required by applicable Requirements, all vessels that dock along the bulkhead for the purpose of boarding or disembarking passengers for on-board catering from the Premises must show proof of current U.S. Coast Guard Certificate of Inspection as required.

(c) No Ferry-Related Vessels. The use of the bulkhead shall be restricted to non-ferry related vessels. Ferry-related vessels shall be defined as any vessels that provide public transportation between two points for a fee. Ferry related vessels shall not include water shuttle service that is exclusively reserved for patrons of the Premises or the River Café or other establishments owned or leased by Tenant or an Affiliate.

(d) Public Access. At no time shall vessels berthed along the bulkhead or activities relating to said vessels unreasonably limit or block public access to the esplanade, unless, the party responsible for such limitation or blockage has obtained all necessary governmental consents, and approvals.

(e) Emergency Berthings. The above conditions do not apply to vessels using the bulkhead as a result of an emergency, or government sponsored or authorized events, or other similar type waterfront activities.

Section 9.04 Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the commencement and continuance of eviction proceedings against any subtenant using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may constitute a public or private nuisance, or any other article, object, item, substance or thing, that may now or hereafter be prohibited by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 9.05 No Representations or Warranty by Landlord.

(a) Neither Landlord, nor Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

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permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given at Landlord's sole discretion.

Section 10.02. Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 10.03. Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any subtenant using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause, in Landlord's sole reasonable discretion, damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 10.04. No Representations or Warranty by Landlord.

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator and Apple, and their respective directors, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with, Article 23 hereof.

52 North Bronx Market

Term

NOW, THEREFORE, Lessor, for and in consideration of the rents, terms, covenants and conditions of this Lease on the part of the Lessee to be paid, performed, kept and observed, has Leased and demised, and by this Lease does lease and demise to Lessee for an initial term of five (5) years commencing on the first day of the month immediately following the adoption by the Board of Estimate of the aforesaid resolution and terminating on the day immediately preceding the fifth (5) anniversary of such commencement date, subject to cancellation and termination as hereinafter provided.

Premises

ALL that certain property, known as THE NEW YORK CITY ARTHUR AVENUE RETAIL MARKET, known as lot No. 13, block No. 3073 with the building and improvements thereon, situated in the Borough of The Bronx, County of The Bronx, City and State of New York, and as shown on the Lease Print annexed hereto, Marked Exhibit "A" and made a part hereof, and referred to on the Lease Print as the "ARTHUR AVENUE ENCLOSED MARKET" (hereinafter called the "Demised Premises"

On the following TERMS and CONDITIONS which Lessee for itself, its successors and assigns hereby covenants, promises and agrees to and with Lessor to keep, observe and perform.

Use of Property

FIRST: Lessee shall use and occupy the Demised Premises for the conduct of a business that will operate and deal in the sale of food, dry goods, general merchandise and services and purposes incidental thereto only, and for no other purpose whatsoever except with the prior written consent of the Commissioner in each instance.

53 NYC Transit Authority

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Type of Use. (a) Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises continuously and without interruption throughout the Term as an office building and outdoor public plaza. Tenant may: (i) use the underground portion of the Building for a parking garage (and for office, retail and/or storage facilities) and (ii) use the ground floor of the Building for office space or for retail facilities or other uses (including a coffee shop, cafeteria or similar facility) accessory to the use of the Building as an office building (but in no event in violation of Section 23.02).

(b) Prior to beginning excavation for the foundation of the New Building, Tenant may at its option use the Premises for surface parking. If Tenant so uses the Premises, it shall pay to Landlord on the first day of each calendar month 25% of any net profit from parking activity actually received by Tenant or an Affiliate during the preceding calendar month. Such payments shall be part of Rental. "Net profit" for this purpose shall mean the excess of revenues of Tenant and Affiliates from the parking operation over the following and only the following expenses of Tenant and Affiliates of maintaining the Premises during the pre-excavation period: (i) PILOT, (ii) erection of a project sign on the Premises and (iii) expenses of the parking operation itself such as wages for attendants, insurance particular to the parking operation, etc. The profit sharing provisions of this paragraph (b) shall with respect to profits from pre-construction surface parking supercede the provisions of Section 3.04 hereof, so that no Annual Payments will be due in connection therewith.

Section 23.02 Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose, or for any purpose, or in any way, in violation of the provisions of Section 23.01 or Article 16 hereof, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for any unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16 hereof.

54 Mosaica / Our World Neighborhood Charter School

sum, cost, expense, charge, payment or deposit, to the respective dates on which actual payment thereof is received by Landlord, in New York Clearing House Association Funds, shall constitute Rental hereunder and shall be paid by Tenant to Landlord within five (5) business days of written demand for same by Landlord.

Section 22.03. Reimbursement For Amounts Paid by Landlord Pursuant to this Article. Any amount paid by Landlord in performing Tenant's obligations as provided in this Article, including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed to Landlord on Landlord's demand, together with a late charge on amounts so paid by Landlord, calculated at the Late Charge Rate as set forth in Section 22.02.

Section 22.04. Waiver Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease, institute summary proceedings, and/or to take such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder, provided that, if Landlord pays or performs any such obligation of Tenant and Tenant reimburses Landlord in accordance with Section 22.03 hereof, such Default or Event of Default shall be deemed to have been remedied and Landlord may not thereafter terminate this Lease by reason of such Default or Event of Default.

Section 22.05. Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. Landlord shall be entitled to recover, as damages for such Default or Event of Default, the uninsured but insurable amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

Section 22.06. Tenant's Right to Perform Landlord's Work. If Landlord fails to substantially complete Landlord's Work by the Landlord's Work Completion Date, subject to Unavoidable Delays, or fails to complete the punchlist work in the time period set forth in Section 13.13 hereof, or fails to make any repair or replacement for which Landlord is obligated under this Lease, Tenant may notify Landlord of such failure and Tenant's intent to perform such Landlord's Work or punchlist work or repair or replacement, and if Landlord does not commence the remaining Landlord's Work or punchlist work or repair or replacement, and diligently prosecute same to completion, then Tenant has the right to complete such uncompleted Landlord's Work, punchlist work or repair or replacement and off-set the actual and reasonable cost of same against Base Rent.

ARTICLE 23

USE OF THE PREMISES

Section 23.01. Permitted Uses. Subject to the provisions of law, the Deed, the Master Lease and this Lease, Tenant shall use and operate the Premises throughout the Term

principally as and for processing digital film product and producing video content, and other media, new media or internet-related video processing, production and sales, and ancillary office use, and for no other purpose without Landlord's prior written consent.

Section 23.02. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose, or for any purpose, or in any way, in violation of the provisions of Section 23.01 above or Article 16 hereof or the Certificate of Occupancy for the Building, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Promptly after its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of the Certificate of Occupancy for the Building or this Article 23 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants, occupants, invitees, licensees and permittees using a portion of the Premises for any unlawful or illegal business, use or purpose or in violation of the certificate(s) of occupancy for the Improvements or this Article 23 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental as due hereunder and such failure shall continue for a period of five (5) business days after notice thereof from Landlord;

(b) if Tenant shall fail to Commence Renovation of (a portion of) the Building on or before a Scheduled Renovation Commencement Date (subject to the period of Unavoidable Delays) and such failure shall continue for a period of thirty (30) days after notice thereof from Landlord, or if Tenant shall thereafter fail to diligently prosecute the Renovation of (a portion of) the Building (for which failure no further notice shall be required);

(c) if Tenant shall fail to Substantially Complete the Renovation of the Building on or before a Scheduled Completion Date (subject to the period of Unavoidable Delays) after a period of thirty (30) days after notice thereof from Landlord, or, if Tenant cannot reasonably Substantially Complete the Renovation of the Building within said thirty (30) day period, if Tenant shall fail to commence or recommence Renovation of the Building within a period of thirty (30) days after notice thereof from Landlord, or if Tenant shall thereafter fail to diligently prosecute the Substantial Completion of the Renovation of the Building thereafter (for which failure no further notice shall be required);

(d) if Tenant shall enter into (or permit to be entered into) an assignment of the Premises or Sublease or any other transaction conveying any interest in this Lease or the Premises without compliance with the provisions of this Lease and such assignment or Sublease or other transaction shall not be made to comply with the provisions of this Lease or cancelled

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Pier A = property Battery Park City Auth. (tenant)

Landlord, its agent, employee, contractor, or any other person acting on Landlord's behalf to enter upon the Premises or any portion thereof for any such purpose), and may take all such action as may be necessary therefor. Notwithstanding the foregoing, neither Landlord nor any agent, employee, contractor or any other person acting on Landlord's behalf may enter upon the Premises or any portion thereof for any such purpose.

Section 22.02. Amount Paid by Landlord as Additional Rental.

All reasonable sums so paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the Late Charge Rate from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense, shall constitute, following notice from Landlord to Tenant, additional rental under this Lease and shall be paid by Tenant to Landlord with and in addition to the Base Rent payable on the first day of the month following the giving of such notice.

Section 22.03. Waiver, Release and Assumption of Obligations.

Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease in accordance with the provisions hereof and/or to take such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.04. Proof of Damages.

Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the reasonable costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY.

Section 23.01. Permitted Uses.

The Pier shall be used for recreational maritime and ancillary uses including retail, event and dining uses, as well as commercial office uses, including the following:

(a) National Park Ferry Service. It is currently contemplated that, provided that the Landlord, the Tenant and the applicable third party or parties can mutually agree to terms and conditions in compliance with the terms hereof, the Pier shall become the primary embarkation/debarkation point for ferry services to the Statue of Liberty National Monument and Ellis Island. Tenant agrees to use all reasonable efforts to negotiate an agreement with the National Park Service for the Liberty Island ferry service on a sole source basis.

(b) Harbor District Ferry Service. In addition to the foregoing, the City reserves the right to require the Tenant to permit or license on then-commercially reasonable terms any or all of the Pier's then-available docking slips to City-designated recreational ferry services traveling to various other sites in the New York harbor (such sites, together with the Statue of Liberty National Monument and Ellis Island, being referred to collectively as the "Harbor District"), provided that the Pier can safely accommodate such additional ferry services and subject to legally required environmental reviews, if any.

(c) Signage. In connection with any of the above described ferry services, any brand identity developed by the City to unify such Harbor District sites shall be incorporated into signage for the Pier.

(d) Pier A, the Breakwater and the Adjacent Underwater Area. Pier A, the Breakwater, and/or the Adjacent Underwater Area may be used for transient docking and waterborne arrivals and departures ("Transient Docking") ancillary to and in conjunction with commercial operations at the Pier, subject to (i) Tenant's notice to the Administrator for each and every boat which is or is known or anticipated to be docked for a period longer than seven (7) consecutive days, and (ii) any required public easements or rights and all Requirements, including, without limitation, requirements of the Army Corps of Engineers and any appropriate Governmental Authorities; provided, however, that the City may use Pier A and/or the Breakwater for intermittent Transient Docking without notice to Tenant for emergency and other extraordinary uses. Pier A, the Breakwater, and the Adjacent Underwater Area may not be used for any waterborne purposes other than Transient Docking without Landlord's prior written consent, which will be granted or denied in Landlord's sole discretion.

(e) The Public Plaza. The Public Plaza, consisting of approximately 34,000 gross square feet, shall be operated as a public space, open to the general public for passive recreational use during all hours that any portion of the Project or Battery Park is open to the public. Improvements located on the Public Plaza shall be consistent in spirit with the Pier's historic and current maritime use as part of the Harbor District.

(f) No Unlawful Occupancy. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose, or for any purpose, or in any way, in violation of the provisions of Section 23.01 or Article 16 hereof or the Certificate (s) of Occupancy for the Premises, or in such manner as may make void or voidable any insurance then required to be carried under Article 7 hereof. Immediately upon discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using any portion of the Premises for any unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16 hereof.

Section 23.02. Excess Development Rights.

Landlord shall not use or permit the use of Excess Development Rights on or over the Premises without the prior written consent of Tenant. Any use or transfer of the Excess Development Rights shall not impair the reasonable access, existing immediately prior to the

time of such use or transfer, between the Premises and major public thoroughfares during the operating hours of the commercial public facilities located on the Premises.

Section 23.03. Adjacent Property; Access.

Tenant shall be advised of any proposed plans made by or in association with the Administrator for the construction of structures or monuments on property adjacent to the Premises, and shall have the opportunity to participate in discussions concerning such proposals in order to coordinate the planning and staging of the Project with such plans for construction on adjacent property. Tenant shall provide reasonable access over the Premises if necessary to obtain access to any adjacent property during any demolition, construction, or reconstruction of any such structure or monuments, or necessary for the intended use, maintenance, or repair thereof, provided such access does not unreasonably interfere with Tenant's use of the Premises.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Definition.

Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental as and when due hereunder and such failure shall continue for a period of ten (10) days after notice;

(b) if Tenant shall fail to comply with its agreements set forth in Section 14.02 or shall fail to maintain the insurance required by Article 7 and if such failure shall continue for a period of ten (10) days after notice;

(c) if Tenant shall fail to maintain the Premises as provided in Section 14.04 hereof and if such failure shall continue for a period of thirty (30) days after notice (unless such failure requires work to be performed, acts to be done or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall exist as long as Tenant shall have commenced curing the same within such thirty (30) day period and shall diligently and continuously prosecute the same to completion within a reasonable period);

(d) if Tenant shall fail to commence Construction of the Project within the time period provided for such commencement in Article 13 hereof, and such failure shall continue for a period of ninety (90) days after notice thereof from Landlord (subject to Unavoidable Delays), or if Tenant shall fail to diligently prosecute the Construction of the Project until completion in accordance with the provisions of this Lease and such failure shall continue for thirty (30) days after notice;

(e) if Tenant shall fail to Substantially Complete the Construction of the Project on or before the second anniversary of the date of this Lease in accordance with the provisions of this Lease and such failure shall continue for a period of sixty (60) days after Landlord's notice thereof to Tenant (subject to Unavoidable Delays);

Teleport - PANYNJ

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Section 3. Rights of User

3.1 The Lessee shall use Site A solely for the construction and operation of a building consisting of up to four (4) stories and containing approximately 110,000 square feet of floor space to be operated by the Lessee as a first-class office building for occupancy by Space Tenants in accordance with the Section of this Agreement entitled "Space Leases", and for no other purpose or purposes whatsoever. The Lessee shall use Sites B, C, and D, if such are included in the premises hereunder, for the purposes set forth in paragraph 1.4, 1.4.1, and 1.4.2, respectively, of Section 1 of this Agreement and for no other purpose whatsoever.

3.2 As used herein:

(i) "Port Authority Development Limitation Period" shall mean the period from the commencement date of the letting of Site A under this Agreement through the one hundred eighty-fifth (185th) day following the commencement date of the letting of Site A under this Agreement, both dates inclusive.

(ii) "Private Developer Limitation Period" shall mean the period from the one hundred eighty-sixth (186th) day following the commencement date of the letting of Site A under this Agreement through the two hundred seventy-fifth (275th) day following the commencement date of the letting of Site A under this Agreement, both dates inclusive, as the same may be extended pursuant to the provisions of paragraph 3.2.1 of this Section.

(iii) "Non-exclusive occupancy building" shall mean any office building in which, at the time construction thereof is commenced, less than seventy-five percent (75%) of the rentable square feet to be contained therein are leased to a single person, firm or corporation.

(iv) "Multiple occupancy office building" shall mean an office building in which, at the time construction thereof is commenced, all the rentable square feet of space therein is leased to more than three Space Tenants, if one of such Space Tenants is to occupy less than twenty thousand (20,000) rentable square feet of space therein.

The Port Authority agrees that during the Port Authority Development Limitation Period it will not itself construct either a non-exclusive occupancy office building or a multiple occupancy office building nor will it during such period lease any area at the Teleport to others for the construction of such buildings. Subsequent to the expiration of the Port Authority Development Limitation Period the Port Authority may itself construct either

a non-exclusive occupancy building or a multiple occupancy office building but the Port Authority will continue to refrain from leasing areas at the Teleport to others for the construction of such buildings until the expiration of the Private Developer Limitation Period. Nothing contained herein shall or shall be deemed to prevent the Port Authority from constructing any building in which, at the time construction thereof is commenced, at least seventy-five percent (75%) of the rentable square feet to be contained therein are leased to a single person, firm or corporation, or in which, at the time of construction thereof, all of the rentable square feet of space therein is leased to no more than three Space Tenants, or in which at the time of construction thereof all of the rentable square feet of space therein is leased to more than three Space Tenants if each such Space Tenant is to occupy at least twenty thousand (20,000) square feet of space, and nothing contained herein shall or shall be deemed to prevent the Port Authority from leasing areas at the Teleport to others for the purpose of constructing any such building. Furthermore, nothing contained herein shall be or be deemed to prevent the Port Authority either from entering into the Participation Agreement or into the Sublease nor shall anything contained herein be or be deemed to prevent either MLT, WUCS or the Partnership from constructing any building at the Teleport, whether pursuant to the Participation Agreement, the Sublease, or otherwise, or to prevent the Port Authority from constructing any such building for MLT, WUCS or the Partnership, either pursuant to the Participation Agreement, the Sublease, or otherwise.

3.2.1 The Lessee shall have a single right to extend the Private Developer Limitation Period set forth in subdivision (ii) of paragraph 3.2 hereof for a period not to exceed ninety (90) days from the expiration date for such period set forth in subdivision (ii) of paragraph 3.2 provided, however, that the Lessee shall give firm and unconditional written notice to the Port Authority of its election so to do not later than thirty (30) days prior to the said expiration date and provided, further, that, simultaneously with its notice the Lessee shall pay to the Port Authority, in addition to all other payments due under this Agreement, the sum of Ten Thousand Dollars and No Cents ($10,000.00) for each thirty day period, or portion thereof, in the period from the expiration date of the Private Developer Limitation Period set forth in subdivision (ii) of paragraph 3.2 hereof to the expiration date of the extended Private Developer Limitation Period as set forth in the Lessee's notice, both dates inclusive, and provided, further, that any notice given in accordance with the provisions of this paragraph shall not be effective if the Lessee is under notice of default as to which the applicable period to cure, if any is provided for in this Agreement, has passed, or under notice of termination from the Port Authority, either on the date of giving of its notice to the Port Authority or on the intended effective date thereof.

Howland Hook Terminal - PANYNJ

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Use:

1. Notwithstanding the provisions of Article First of the 1983 Lease, the Port Authority shall use the Terminal for the operation of a marine terminal for use by the Port Authority's lessees thereat, acting as stevedore, terminal operator, or vessel operator, and for no other purpose or purposes whatsoever. As used in this paragraph, the term "marine terminal" shall mean a facility to be used: (i) for the berthing and servicing of sea going vessels primarily carrying or about to carry marine cargo, as hereinafter defined, and which are operated by persons, firms or corporations which shall have the prior and continuing consent of the Port Authority, and of tugboats, barges, lighters and other harbor craft serving such seagoing vessels; (ii) for loading or discharge of marine cargo, as hereinafter defined, and ships' stores, supplies and gear; (iii) for the receipt, handling, and storage incidental to the transportation of marine cargo, as hereinafter defined, (whether or not in cargo containers) and of ships' stores, supplies and gear; (iv) for the storage of cargo-containers, other cargo handling equipment, and small amounts of dunnage used or intended to be used in connection with the transportation or storage of marine cargo, as hereinafter defined; and (v) for purposes incidental to the other permitted operations which may be conducted at the facility. As used in this paragraph "marine cargo" shall mean cargo waterborne to the Terminal or intended to be waterborne from the Terminal. "Waterborne to (or from) the Terminal" shall mean and include all shipments consigned to or from the Terminal which enter or leave the Port of New York by water.

2. (a) Article Third of the Assignment is hereby deleted. Notwithstanding the provisions of Article Third of the 1983 Lease, the Port Authority shall have the right to sublet the Terminal in whole or in part subject to the consent of the City, which consent shall not be withheld unless the City shall determine either (i) that the proposed use of the subleased premises is not in accordance with the provisions of paragraph 1 of this Agreement; or (ii) that the proposed subtenant or its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, or any member of its Office of the President or Presidium, or any director or general partner thereof, or any person, firm, or corporation having an outright or beneficial interest in 10% or more of the monies invested in the proposed subtenant by loans thereto, stock ownership therein, or any other form of financial interest has (a) been convicted of or is under current indictment in any jurisdiction for any crime involving corruption, bribery of a public official or body, misuse of public funds, or any similiar crime indicative of a lack of business integrity; (b) has been suspended, debarred or otherwise disqualified from bidding or submitting a proposal on contracts by any governmental agency; or (c) has had a contract terminated by any governmental agency for any cause directly related to an indictment for or conviction of any crime involving corruption, bribery of a public official or

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Terminal, and (iii) a complete set of as-built drawings and a survey of the Terminal. If Lessor has delivered a temporary certificate of occupancy (or its equivalent), then, prior to the expiration of same or any future temporary certificate of occupancy (or its equivalent), Lessor shall deliver a new or extended temporary certificate of occupancy or a permanent certificate of occupancy (or their respective equivalents).

Terminal Lessee and its Terminal occupants shall be responsible for fit-out of space and facilities for Terminal occupants and users. Terminal Lessee shall be permitted access to the Terminal for fit-out of space and facilities of Terminal occupants and users at such times during Terminal construction as it may request and as the Lessor shall in its reasonable discretion determine to be appropriate and will not interfere with the construction of the Terminal by Lessor. Terminal Lessee and its contractors and subcontractors shall cooperate and coordinate at all times with Lessor and its contractors and subcontractors and shall be subject to the direction of Lessor or its representative for the purpose of avoiding interference by Terminal Lessee and its contractors and subcontractors with Lessor's construction of the Terminal. Terminal Lessee shall cause terms and provisions to the effect set forth in the immediately preceding sentence to be included in contracts and subcontracts for work in connection with Terminal Lessee's fit-out.

Section 4.02. Federal Funding. It is the intention of Lessor and EDC to design and construct the Terminal using $22.2 million in funds to be made available under TEA-21 Section 1101(a)(10) (as well as $5.3 million City Capital Budget funds and Lessee's Contribution and other funds as may become available). Lessor makes no representation with respect to the timing, level or availability of federal funds, but will use diligent efforts to obtain such funds. Lessor and EDC shall be under no obligation to design or construct the Terminal absent the receipt of the federal funds required for such design and construction.

Section 4.03. Lease of Demised Premises. Lessor hereby leases to Terminal Lessee for the Term set forth above the Demised Premises as described in Exhibit A.

Section 4.04. Use of Terminal. The Terminal shall be used to operate Ferry Service (which is deemed to include, but not require on Terminal Lessee's part, connecting bus transportation service) to and from the Terminal solely for the purpose of transporting passengers, principally commuters, and their personal effects and for no other use or purpose. The foregoing notwithstanding, the Terminal may be used to operate the Ferry Service to transport parcels for delivery (including envelopes and small packages) incidental to passenger transport, provided that prior thereto Terminal Lessee informs the Department in writing and obtains the Department's written permission regarding the volume and hours of operation of such delivery parcels transport. The Department may withhold approval of such operations only if such operations will significantly adversely impact the commuter transportation purposes of the Terminal. No Ferry Service shall be used to transport motor vehicles except with the prior written approval of the Commissioner. Terminal Lessee may add additional services and activities which serve to complement the Ferry Service such as ticket counters (including without limitation those operated by Ferry Service operators), restaurants, amusement game machines, merchandise vending machines, ATMs, pay telephones, concession stands, newsstands and the like, consistent with the design of the Terminal, and only subject to such conditions as may be reasonably promulgated by the Lessor. Terminal Lessee shall commit no act nor permit any act to be committed, nor permit any vessel to be operated from the Terminal which violates the

exclusive rights of Circle Line granted by the City to operate excursion and sightseeing vessels under the Circle Line Lease, a copy of which is attached hereto as Exhibit B. No Ferry Service other than Ferry Lessee's Ferry Service may be operated from the Terminal prior to the issuance by the Department of a franchise or other grant or right for same, and any such Ferry Service shall cease operation upon the expiration or earlier termination of such franchise or other grant or right.

Section 4.05. Access. Terminal Lessee shall, at normal operating periods during the term of this Terminal Lease, permit inspection of all facilities at the Terminal by U.S. Coast Guard personnel and by Lessor's agents or representatives. Lessor shall not and shall cause its agents and representatives to not unreasonably interfere with Terminal Lessee's operations in the course of any inspection by or on behalf of Lessor.

Section 4.06. Spill Prevention and Containment. Terminal Lessee shall prepare and submit to the Department a spill prevention containment plan at least ninety (90) days prior to the Commencement Date. In the event of any spillage caused by a vessel, Terminal Lessee shall immediately, at its sole cost and expense, contain and clean the spill at the Terminal in accordance with the plan. If Terminal Lessee does not proceed immediately and effectively to contain any such spill, Commissioner may take any action deemed necessary in his or her sole and absolute discretion and require the Terminal Lessee to reimburse Lessor. Nothing in this section shall be deemed to limit Terminal Lessee's ability to recover costs and expenses from a third party. Nothing in this section shall be deemed to relieve Terminal Lessee of any requirements it has under law to notify other governmental agencies in the event of an emergency.

Vessel fueling may not be conducted at the Terminal, without the prior written approval of the Department at its sole and absolute discretion. Any permitted fueling of vessels and other equipment, and waste disposal (including liquid and solid waste) for vessels and for landing and Terminal facilities shall be accomplished in a safe and environmentally sound manner and in compliance with all applicable city, state, and federal laws, rules, and regulations.

Section 4.07. Rent.

(a) Terminal Lessee shall pay to EDC, on behalf of Lessor, as Lessor's Lease Administrator, or such other person as Lessor may designate in writing:

Base Rent. Commencing as of the Commencement Date, and subject to the adjustments hereinafter provided for, annual rent for the Demised Premises ("Base Rent") during the Term at the following annual rates:

(i) For the five-year period commencing on the Commencement Date up to (but not including) the fifth anniversary of the Commencement Date, $150,000 per annum;

(ii) For five-year period commencing on fifth anniversary of the Commencement Date up to (but not including) the tenth anniversary of the Commencement Date the sum of $150,000 plus an amount equal to the greater of (a) $15,000, or (B) the product

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(b) In addition, concurrently with any increase in Annual Base Rent, Tenant shall deposit with Landlord, as additional security, an amount equal to the difference between Annual Base Rent, as so increased, and the amount then held by Landlord as security for Tenant's faithful performance and observance of the terms, provisions and conditions of this Lease.

Section 7.05. Return of Security Deposit. If Tenant shall comply with all of the terms of this Lease, the Security Deposit shall be returned to Tenant within thirty (30) days after the Expiration Date of this Lease, together with interest, if any, accrued thereon, less an amount, to be retained by Landlord, equal to one percent (1%) per annum of the amount of the Security Deposit.

ARTICLE 8

INTENTIONALLY OMITTED

ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use.

(a) Tenant shall use and occupy the Premises for the storage and distribution of food products (crackers, canned goods, soups) and alcoholic beverages, for activities directly related to the storage and distribution of food products and alcoholic beverages, for related office uses and for no other purpose. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given at Landlord's sole discretion.

(b) Tenant understands and agrees that the parking area ("Parking Area") identified in Exhibit A hereto is not part of the Premises. Landlord agrees that Tenant may make use of the Parking Area in accordance with the parking plan ("Parking Plan") set forth in Exhibit D solely for parking of motor vehicles owned or operated by Tenant, its employees and Persons doing business with Tenant. Tenant further understands and agrees that the Parking Area will be used by other Persons not associated with Tenant and that Tenant's permission to make use of the Parking Area will terminate upon expiration or earlier termination of the Lease, or on such other date as Landlord shall determine in its sole reasonable discretion.

Section 9.02. Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in

connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 9.03. Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any subtenant using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause, in Landlord's sole reasonable discretion, damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 9.04. No Representations or Warranty by Landlord.

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator and Apple, and their respective directors, officers, employees and agents against any cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with, Article 23 hereof.

ARTICLE 10

EASEMENTS

Section 10.01. Municipal Easement. Landlord hereby reserves for itself and Lease Administrator, and their respective officers, employees, agents, servants, representatives and invitees, with respect to the Premises an easement and a right of access: (i) to enter upon the Premises to maintain, replace and repair existing municipal facilities located within the

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the office of Administrator above set forth, or at any other location designated by Administrator during the term of this Lease. Tenant shall pay the Annual Rent in equal monthly installments in advance on the first day of each and every month during the Term. Annual Rent and any and all other amounts due or which may come due pursuant to this Lease are collectively referred to as "Rent". Annual Rent shall be set at $42,000 per year for Years 1-2 of the Term of this Lease. Annual Rent in Years 3-10 of the Term of this Lease shall be as follows:

Year	Annual Rent
3-4	$44,100 per year
5-6	$46,355 per year
7-8	$48,620 per year
9-10	$51,051 per year

Landlord, shall, within eight (8) months before the expiration of the Initial Term, inform Tenant of the Renewal Term rent schedule to be applied for the Renewal Term of this Lease. The Annual Rent for Year 11 will be equal to the lower of fair market value of the Premises or 150% of the Year 10 Annual Rent. Annual Rent for each Lease Year in the remainder of the Renewal Term will be equal to the Annual Rent for Year 11 subject to escalations every other year for the duration of the Renewal Term, such escalations not to exceed a rate greater than the increase in the Consumer Price Index since the previous adjustment. "Consumer Price Index" means the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y., Northeastern N.J. Area, All Items (1982-84=100), or any successor index thereto, appropropriately adjusted; provided that, if there shall be no successor index and the parties shall fail to agree upon a substitute index within thirty (30) days, or if the parties shall fail to agree upon the appropriate adjustment of such successor or substitute index within thirty (30) days, a substitute index or the appropriate adjustment of successor or substitute index, as the case may be, shall be determined by arbitration. Fair market value shall be determined by a fair market appraisal to be performed and completed by Landlord at Tenant's expense no sooner than one (1) year prior to the Initial Term Expiration Date, and no later than the Initial Term Expiration Date.

Use

Article 4. Tenant shall use and occupy the Premises solely for the purpose of the use and operation of a commercial marina facility including the sale of gasoline and other products ordinarily sold in gasoline stations and for no other purpose.

Maintenance, Repairs and Alterations

Article 5. (a) Tenant shall, at its sole cost and expense, take good care of the Premises and fixtures thereto, and shall quit and surrender the Premises at the end of the Term in good condition, subject to reasonable wear and tear. Tenant shall not make any additions, alterations or improvements in said Premises, or permit any additional lock or fastening on any door, without the prior written consent of Landlord. All such fixtures and permanent alterations, partitions, additions, or improvements which may be made upon the Premises shall be the property of Landlord, and shall, at Landlord's option, remain upon and be surrendered with the Premises as a part thereof upon the Expiration Date, without disturbance,

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ARTICLE 23

OPERATION; PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. During the Term, Tenant shall use and occupy the Premises in accordance with the terms and provisions of this Article 23, and for no other purpose, and shall not permit the same to be used or occupied except in accordance with the terms and provisions of this Article 23.

Section 23.02. In recognition of the historic and cultural importance of the South Street Seaport and in fulfillment of the public purposes to which the development of the Project Premises is dedicated, throughout the Term Tenant shall cause the Premises to be developed, maintained and operated exclusively as first-class business offices in accordance with the provisions of this Article 23 and for no other purpose, except that the portion of the Premises located in 133 Beekman Street may be sublet to subtenants for use as storage space.

Section 23.03. Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, or for any business, use or purpose which is immoral or disreputable (including, without limitation, "adult entertainment establishments" and "adult" bookstores) or extra-hazardous, or in such manner as to constitute a nuisance of any kind (public or private) or that would in any way adversely affect the public standing or good reputation of Landlord, Fee Owner, Museum, or Marketplace, or for any purpose or in any way in violation of the certificates of occupancy (or other similar approvals of applicable Governmental Authorities) or of any present or future Governmental or Insurance Requirements, or which may make void or voidable any insurance then in force on the Premises or any other portion of the Project Premises. If any such unlawful, illegal, immoral, disreputable or extra-hazardous use shall occur, Tenant agrees promptly to take all lawful steps which may be necessary to compel the discontinuance of such use and/or to oust and remove any Subtenants causing or responsible for such unlawful, illegal, immoral, disreputable or extra-hazardous use or conduct.

Section 23.04. Tenant shall not suffer or permit the Premises or any portion thereof to be used by any Person or by the public without restriction or in such manner as might reasonably tend to impair Fee Owner's title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of prescriptive rights or adverse possession by any Person or by the public, as such, or of implied dedication of the Premises or any portion thereof.

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ARTICLE 22

LANDLORD'S RIGHT TO DISCHARGE LIENS

Section 22.1 Discharge of Liens. If Tenant shall fail to cause any mechanic's, laborer's, vendor's, materialman's or similar statutory lien or any public improvement lien to be discharged in accordance with the provisions of Article 17 hereof, and if such lien shall continue for an additional forty-five (45) days after the applicable cure period provided for in Article 17, then, subject to any rights granted to a Recognized Mortgagee under this Lease, Landlord may, but shall not be obligated to, discharge such lien of record by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances.

Section 22.2 Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any amounts paid by Landlord pursuant to Section 22.1 hereof, including all costs and expenses incurred by Landlord in connection therewith, shall be paid to Landlord within fifteen (15) days of Landlord's demand, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article 22 shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 42.10 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

OPERATION; PERMITTED USES; NO UNLAWFUL OCCUPANCY

Section 23.1 Use and Other Requirements. During the Term, Landlord and Tenant shall use and occupy their respective portions of the Project Premises in accordance with the terms and provisions of this Article 23, and for no other purpose, and shall not permit or suffer the same to be used or occupied except in accordance with the terms and provisions of this Article 23. Notwithstanding anything to the contrary herein, Tenant shall be excused from

continuously using, maintaining and operating the Premises to the extent a closure of all or a portion of the Premises is necessary due to (a) a casualty or condemnation at the Premises, (b) Tenant complying with Article 14 hereof or (c) Tenant undertaking the Initial Renovation Work and any Material Alteration.

Section 23.2 Development; Use; Promotion; Operation.

(a) In recognition of the historic and cultural importance of the South Street Seaport and in fulfillment of the public purposes to which the development of the Project Premises is dedicated, throughout the Term, Tenant shall cause the Premises to be (i) maintained and continuously operated as a first-class, specialty retail marketplace including, without limitation, for the operation of a performance and entertainment venue or a cinema or movie theater facility, in accordance with the provisions of this Article, and in a manner at least equal to the current standards of operation of Faneuil Hall Marketplace in Boston and Harborplace in Baltimore; and (ii) used incidentally to the purposes permitted by clause (i) above to provide supporting clerical, administrative and executive offices (but not in excess of 10,000 square feet of Gross Leasable Area and only on the second or higher floor) therefor.

(b) In Subleasing the Premises and the Commercial Areas to Subtenants, Tenant agrees that (i) in the aggregate, no more than 100,000 square feet of Gross Leasable Area in the Premises and the Commercial Areas shall be used for "fast-food" type operations (said 100,000 square foot area to be proportionately reduced, but not below 30,000 square feet, if this Lease shall be terminated in respect of any portion of the Premises); (ii) no portion of the Premises located in the Museum Block or the Schermerhorn Block shall be used for the operation of a "fast-food" business, except as an incidental part of a restaurant located therein and except for such uses by Subtenants existing on the date as of which this Lease is made; (iii) no part of the Premises located on the ground floor of the Market Block and adjacent to Fulton, Front or Beekman Streets shall be used for the operation of a "fast-food" business, except as incidental to the operation of another type of food business; and (iv) no portion of the Premises located on the Museum Block shall be used for the operation of a food business other than a restaurant or cafe (including "fast-food" sales incidental thereto). As used herein, the term "fast food" shall mean a food service establishment having a limited menu of precooked meals that shall be wrapped in paper or boxes and sold to patrons in paper bags, disposable containers and/or on plastic trays (such as a "McDonald's", "Burger King", "Dunkin Donuts", "Wendy's" or "Ranch One Chicken"), it being agreed that (i) the failure of a restaurant to provide waiter or waitress service or tablecloth dining shall not automatically be deemed to constitute "fast food", (ii) the existence of cafeteria type dining shall not automatically be deemed to constitute "fast food." and (iii) a restaurant such as "Starbucks", "Pret A Manger", "Cosi" and other similar restaurants that are upscale and high-quality shall not be deemed to constitute "fast food".

(c) Tenant shall continuously, uninterruptedly, actively and diligently operate a specialty retail marketplace seven days per week, at least nine hours per day on Mondays through Saturdays and six hours on Sundays, and shall require substantially all Subtenants to operate and conduct their respective businesses on all such days and for such hours, except when

Tenant and/or any Subtenants shall be prevented from doing so by strike, fire, other casualty or other cause beyond the reasonable control of Tenant and/or any such Subtenants, and except on the following holidays: New Year's Day; first and second days of Passover; Good Friday; Easter Sunday; Rosh Hashanah; Yom Kippur; Thanksgiving Day; and Christmas Day. Landlord and/or Tenant shall also make available to the general public, at least during the hours set forth above (but consistent with reasonable maintenance and security requirements of Landlord, Tenant and the Subtenants) and free of charge or admission, all public circulation and seating areas of Pier 17, the Buildings on Pier 17 and throughout other portions of the Premises, other than the roof areas of the Buildings on the Premises (for which Tenant may charge members of the public to access), substantially in accordance with Tenant's plans and specifications therefor to be approved in accordance with applicable provisions of this Lease. Tenant shall obtain Landlord's prior written consent to any material modification of the Requirements of the City Planning Commission or any other public approvals with respect to the Premises.

(d) Tenant shall cause a food market that includes locally and regionally sourced food items and that is open to the public seven days a week to open within the Premises. Tenant shall, subject to Force Majeure, use commercially reasonable efforts to open such food market prior to October 1, 2014.

Section 23.3 Use of Pier 17 Roof.

(a) All areas of the roof of the Pier 17 improvements (other than those areas reserved for restaurant use and mechanical equipment) (the "Rooftop Space") shall be open to the public at no charge; provided, however, that Tenant shall have the right to temporarily close portions of the Rooftop Space (other than the Rooftop Access Area, as defined in the Restrictive Declaration) for private use as described in section 5(a) of the Restrictive Declaration so long as Tenant shall use reasonable good faith efforts to provide free public access to as much of the Rooftop Space as is reasonably possible during such times of private use. On up to four occasions/year (of which up to two can be on a Saturday, Sunday or legal holiday), Tenant shall make available, for no rental charge, to a community based organization (such as the PTA of the neighborhood school or neighborhood senior citizen or youth center) ("CBO") of which it has reasonably approved either up to one-half of the Rooftop Space or the stage within the prolongation of Fulton Street for an event or activity sponsored by such organization.

(b) No later than June 30, 2014, Tenant shall hire an acoustical engineer to make recommendations as to reasonable measures to reduce sound transmission from the Rooftop Space and the pier level event space. Tenant shall direct such acoustical engineer to promptly prepare and submit to Tenant a report describing the proposed sound reduction measures and promptly after such report is submitted to Tenant, Tenant will transmit a copy thereof to Speaker Quinn, Councilwoman Chin, the City Council Land Use Division, and Lease Administrator, and shall work in good faith to implement the noise reduction measures set forth in the report that are both commercially reasonable and feasible.

(c) At such times as there are events being held simultaneously on both the Rooftop Event Space and pier levels of Pier 17, Tenant shall consult with the New York City Police Department as to a reasonable interval between the ending times for each event, and it shall thereafter establish, in its discretion, the ending time of each such event.

Section 23.4 Intentionally omitted.

Section 23.5 Pedestrian Walkways. Landlord and Tenant confirm that the Commercial Areas, Titanic Park, Marginal street, wharf or place and all other outdoor pedestrian walkways within the Project Premises (including, but not limited to, the Former Streets) are intended for use primarily for public circulation, free of charge or admission, and Landlord and Tenant shall not permanently or materially impede or obstruct public access to or circulation in such areas, except (i) for reasonable security and maintenance purposes, and (ii) as otherwise expressly permitted in this Lease (including the Demapping Resolution and Exhibit C hereto) (including construction plans and specifications approved thereunder). In particular, but without limiting the generality of the foregoing:

(a) Titanic Park shall be developed and maintained by Landlord as landscaped open space, with adequate seating facilities, accessible to the general public at all times without charge or admission.

(b) Tenant shall use and occupy the Commercial Areas, and shall require all Subtenants using any portion thereof to use and occupy the Commercial Areas, in accordance with the terms, covenants and conditions of the Demapping Resolution and Exhibit C hereto and this Lease.

(c) Intentionally omitted.

(d) The Former Streets shall at all times be accessible to emergency vehicles (including, but not limited to, ambulances, fire trucks and police cars), and no structures shall be erected that impede access to, or passage through, the Former Streets by such emergency vehicles.

(e) It is hereby understood that public access to that portion of Marginal street wharf or place that is within the Premises is intended to be for the purpose of pedestrian passage and circulation, not for the placement of vending units of any kind, except for vending units placed on said portion of Marginal street wharf or place pursuant to Subleases entered into by Tenant under the terms of this Lease. Subject to the provisions of this Lease regarding public access and circulation, Tenant is granted the exclusive commercial right to use and lease to Subtenants such areas of Marginal street.

Section 23.6 Use. Landlord shall cause all space (other than public circulation areas) within the Buildings located in Landlord's Premises, other than the Museum Premises (unless the

Museum Premises shall cease to be used for their respective purposes permitted under this Article 23), to be used and occupied only for appropriate office purposes, and for no other purposes without the prior consent of Tenant, which consent shall not be unreasonably withheld or delayed except that (a) Landlord may let portions of such space for use as artists' studios and as residential space to persons occupying or having a right to occupy portions of the Project Premises for such purposes on the date as of which this Lease is made, and (b) Landlord may sublet for retail or restaurant uses, without the consent of Tenant, any portion of the Option Premises (hereinafter defined) which Tenant shall have failed to lease pursuant to its option set forth in Section 23.9 hereof, subject, however, to the provisions of subsection (d) of Section 23.9 hereof.

Section 23.7 Illegality. Tenant and Landlord shall not use or occupy, nor permit or suffer the Premises or any part thereof, the Commercial Areas or Landlord's Premises or any part thereof, as the case may require, to be used or occupied for any unlawful or illegal business, use or purpose, or for any business, use or purpose which is immoral or disreputable (including without limitation "adult entertainment establishments" and "adult" bookstores) or extra-hazardous, or in such manner as to constitute a nuisance of any kind (public or private), or for any purpose or in any way in violation of the certificates of occupancy (or other similar approvals of applicable Governmental Authorities), the Demapping Resolution and Exhibit C hereto, or of any present or future Requirements, or which may make void or voidable any insurance then in force on the Premises or any other portion of the Project Premises. If any such unlawful, illegal, immoral, disreputable or extrahazardous use shall occur, Tenant, if such use be on the Premises or the Commercial Areas, and Landlord, if such use be on any other portion of the Project Premises, agree promptly to take all lawful steps which may be necessary to compel the discontinuance of such use and/or to oust and remove any Subtenants causing or responsible for such unlawful, illegal, immoral, disreputable or extra-hazardous use or conduct.

Section 23.8 Landlord's Title. Tenant shall not suffer or permit the Premises or any portion thereof to be used by any Person or by the public without restriction or in such manner as might reasonably tend to impair Landlord's title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of prescriptive rights or adverse possession by any Person or by the public, as such, or of implied dedication of the Premises or any portion thereof.

Section 23.9 Option Premises. If at any time:

(a) any part of Option Premises I shall be or become vacant and shall not be relet for a period of six (6) months after the date of vacating of such space; or

(b) any part of Option Premises I or Option Premises II shall be operated in nonconformity with the terms of this Article 23, or with respect to the Museum Premises, in nonconformity with Article 23 of the Museum Lease as such provisions exist on June 29, 2012, and Tenant shall give notice to Landlord of such nonconforming use, then (1) if any Subtenant shall remain in occupancy of such part, Landlord shall use its best efforts to cause such nonconforming use to cease (which efforts shall include, if necessary, the institution of actions or

proceedings to terminate the Sublease of such Subtenant and to recover possession of such part of the Option Premises), and (2) if Landlord shall recover possession of such part of the Option Premises, and if Landlord shall not have relet such vacant space for use and operation substantially in accordance with the terms of this Article 23, or with respect to the Museum Premises, in nonconformity with Article 23 of the Museum Lease, within six (6) months following the later of (x) Tenant's aforesaid notice with respect to such part, and (y) Landlord's recovery of possession of such part;

then Tenant shall have the right and option, which it may exercise by notice to Landlord given at any time within sixty (60) days after the expiration of the aforesaid six (6) month period, to lease from Landlord all or any such part of the Option Premises referred to above, under this Lease and upon and subject to all of the terms and conditions contained herein, except that:

(i) in respect of Option Premises I or any part thereof so leased to Tenant, the Base Rent, for each Fiscal Year, applicable to such part of the Option Premises I shall consist of the greater of the following sums: (A) full Taxes attributable to the Land and Buildings (or space) so leased, and (B) eighty percent (80%) of the average Base Rent payable by Tenant hereunder for the preceding three Fiscal Years multiplied by a fraction, the numerator of which shall be the number of square feet of Gross Leasable Area of the Option Premises I so leased and the denominator of which shall be the average number of square feet of Gross Leasable Area included in the Premises during said three Fiscal years; and]

(ii) in respect of Option Premises II or any part thereof so leased to Tenant, the Base Rent, for each Fiscal Year, applicable to such part of the Option Premises II shall be an amount equal to the fair market rental value of said premises at the time of the addition of said premises to the Premises demised hereunder, determined in accordance with an appraisal conducted in the manner provided in Article 35 hereof. The scope of said appraisal shall be prepared by Lease Administrator in accordance with its policies and reviewed and approved by Tenant, in its reasonable discretion.

(c) (i) The term "Option Premises" shall mean Option Premises I and Option Premises II, collectively, each as described below and depicted on Exhibit A-4 hereto.

(ii) The term "Option Premises I" shall mean, collectively, the following portions of Landlord's Premises: (x) the first (ground) and second stories of Buildings on the Museum Block, and (y) space located in the ground floor of Schermerhorn Block and known as Nos. 12 and 14 Fulton Street (except that then existing public circulation areas within No. 12 Fulton Street shall remain as public circulation areas).

(iii) The term "Option Premises II" shall mean, collectively, the following portions of Landlord's Premises: (x) space located above the second story of Buildings on the Museum Block, (y) the Tin Building, and (z) all portions of Schermerhorn Block other than the space referred to in clause (ii) (z) above.

(d) If Tenant shall have declined to exercise its option to lease all or any part of the Option Premises at the respective rentals set forth therefor in this Section 23.9, and Landlord shall subsequently propose to relet such space to a third party for retail or restaurant use and at a rental below the rental at which Tenant declined to exercise its option as aforesaid, then Landlord shall give notice of such proposed reletting to Tenant, which notice shall set forth the amount of rental proposed to be charged in respect of such space, and Tenant shall have the right to lease such space at a rental equal to the rental set forth in Landlord's notice, and otherwise upon and subject to all of the terms and conditions of this Lease. Tenant shall exercise such right by giving notice to Landlord of its intention to lease such space upon the aforesaid terms within thirty (30) days after Landlord shall have given its aforesaid notice. Tenant's right to lease such space, as set forth in this subsection (d), shall apply only to Landlord's initial reletting of such space for retail or restaurant uses, and not to any subsequent reletting.

(e) Whenever Tenant shall elect to lease any portion of the Option Premises, the same shall be leased under this Lease as aforesaid, and Landlord and Tenant shall enter into a modification of this Lease, in recordable form, setting forth the terms of such letting in accordance with the provisions of this Section 23.9.

(f) If, pursuant to this Section 23.9, Tenant shall have had the opportunity to exercise its option to lease the Tin Building from Landlord and Tenant shall have failed timely to exercise such option, then commencing with the earlier of (a) the date of expiration of such option, and (b) the date Tenant shall give Landlord notice that Tenant declines to exercise such option, all of Landlord's obligations in respect of the Tin Building shall cease and terminate as fully as if the Tin Building were no longer part of Landlord's Premises or the Project Premises.

Section 23.10 John Street ROFO.

(a) The provisions of this Article 23 notwithstanding, in lieu of any right or interest it currently has or may ever have, including arising from this Lease or from any other agreement with regard to that certain lot located on the southeast corner of John Street and South Street, designated as Block 74, part of Lot 1 in the Tax Map of the City of New York for the Borough of Manhattan (the "John Street Lot"), Tenant or any nominee or designee thereof reasonably approved by Landlord ("John Street Offeree") shall have the rights set for in this Section 23.10.

(b) If the City or its assignee shall propose to lease or sell the John Street Lot, then the City or its assignee, prior to offering such sale or lease to any party, shall give written notice of such proposed lease or sale to Tenant (a "John Street ROFO Trigger Notice").

(c) Within forty-five (45) days of receipt of a John Street ROFO Trigger Notice (the "John Street Exercise Period"), John Street Offeree, shall have the right to offer (which offer shall be irrevocable) to purchase or lease all of the John Street Lot, by giving written notice of such offer to Landlord (the "John Street ROFO Offer"), which John Street ROFO Offer shall set forth the cash price John Street Offeree would be willing to pay to purchase or lease the John Street Lot (the "John Street ROFO Price").

(d) If John Street Offeree does not timely make a John Street ROFO Offer or if John Street Offeree affirmatively waives its right of first offer in writing then (A) John Street Offeree shall be deemed to have elected not to purchase or lease the John Street Lot and (B) the City or its designee shall be free to proceed to initiate and consummate the sale or lease of the John Street Lot to any Person at any price and on such other terms as determined by the City in its sole discretion; provided, however, that if such sale or lease of the John Street Lot is not consummated within one hundred eighty (180) days after the expiration of the John Street Exercise Period, then a second attempt to consummate a sale of the John Street Lot within five years after the John Street Exercise Period shall again be subject to the provisions of this **Error! Reference source not found.**, but no further attempts shall be subject to said provisions.

(e) If John Street Offeree timely delivers a John Street ROFO Offer to Landlord, then at Landlord's option, Landlord shall either:

(i) accept the John Street ROFO Offer and proceed with the consummation of the sale of the John Street Lot in accordance with this Section 23.10 and the John Street ROFO Offer; or

(ii) proceed to initiate and consummate the sale of the John Street Lot to a Person other than John Street Offeree (a "Third Party John Street Sale"), at a price not less than one hundred and ten percent (110%) of the John Street ROFO Price and otherwise on substantially the same or better economic terms offered by John Street Offeree (including, without limitation, any guaranties, deposits and payments and the timing thereof, which value shall be determined by Tenant and Landlord acting reasonably and in good faith); provided, however, if a Third Party John Street Sale fails to close within one hundred eighty (180) days after the John Street Exercise Period, then a second attempt to consummate a sale or lease of the John Street Lot within five years after the John Street Exercise Period shall again be subject to the provisions of this Section 23.10, but no further attempts shall be subject to said provisions.

(f) Any closing of a sale or lease of the John Street Lot to John Street Offeree pursuant to this Section 23.10 shall be consummated in accordance with the following provisions:

(i) closing shall occur at such date as may be agreed between Landlord and John Street Offeree, not to be earlier than sixty (60) days nor later than one hundred twenty (120) days after Landlord's acceptance of the John Street ROFO Offer;

(ii) Landlord shall execute and deliver to John Street Offeree such deeds, lease, instruments of conveyance, assignments and/or other instruments as may be reasonably necessary or reasonably desirable to effectuate the transfer or lease of the John Street Lot to John Street Offeree;

(iii) the John Street ROFO Price shall be payable to Landlord at the closing in immediately available funds, in the case of a sale.

(g) Subject to Section 23.10(d) hereof, any proposals to lease or sell the John Street Lot after an initial John Street ROFO Trigger Notice shall not be subject to the provisions of this Section 23.10.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall enter into an Assignment, Transfer or Major Sublease without compliance with the provisions of this Lease and such Assignment, Transfer or Major Sublease shall not be made to comply with the provisions of this Lease or canceled within thirty (30) days after Landlord's notice thereof to Tenant;

(c) if Tenant shall fail to comply with its obligations pursuant to Article 14 (Maintenance and Repairs) and such failure shall continue for a period of thirty (30) days after notice thereof from Landlord to Tenant specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within the thirty (30) day period and shall diligently and continuously prosecute the same to completion);

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ARTICLE 22

NO ABATEMENT OF RENTAL

Except as may otherwise be expressly provided herein, there shall be no abatement, diminution or reduction of Rental payable by Tenant hereunder or of any of the other obligations of Tenant hereunder under any circumstances whatsoever.

ARTICLE 23

OPERATION; PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. During the Term, Tenant shall use and occupy the Premises, and shall cause (or, to the extent hereinafter set forth, require or use reasonable efforts to cause) Subtenants to use and occupy their respective portions of the Premises and the Telco Space, in accordance with the terms and provisions of this Article 23, and for no other purpose.

Section 23.02. In recognition of the historic and cultural importance of the South Street Seaport and in fulfillment of the public purposes to which the development of the Project Premises is dedicated, throughout the Term Tenant shall cause the Marketplace Premises and the Telco Space to be (i) developed, maintained and continuously operated as a first-class, specialty retail marketplace, in accordance with the provisions of this Article, the applicable provisions of the Improvement Agreement, and in a manner at least equal to the current standards of operation of Faneuil Hall Marketplace in Boston and Harborplace in Baltimore; and (ii) devoted to the promotion and sale, by a variety of Subtenants, of a reasonable number of maritime and sea-related activities and products, and containing a reasonable number of quality restaurants; and (iii) used incidentally to the purposes permitted by clauses (i) and (ii) above to provide supporting clerical, administrative and executive offices (but not in excess of 5,000 square feet of Gross Leasable Area) therefor.

Tenant shall require of the tenant under the Marketplace Lease, that in subleasing the Marketplace Premises and Telco Space to Subtenants, (i) in the aggregate, not more than 100,000 square feet of Gross Leasable Area in the Marketplace Premises, the Commercial Areas and Telco Space shall be used for "fast-food" type operations (said 100,000 square foot area to be proportionately reduced, but not below 30,000 square feet, if the Marketplace Lease shall be terminated in respect of any portion of the Marketplace Premises or, if Marketplace shall not obtain possession of the Telco Space), (ii) no portion of the Marketplace Premises located in the Museum Block or the Schermerhorn

Block shall be used for the operation of a "fastfood" business, except as an incidental part of a restaurant located therein and except for such uses by Subtenants existing on the date as of which this Lease is made; (iii) no part of the Premises located on the ground floor of the Market Block and adjacent to Fulton, Front or Beekman Streets shall be used for the operation of a "fast-food" business, except as incidental to the operation of another type of food business; (iv) no portion of the Premises located on the Museum Block shall be used for the operation of a food business other than a restaurant or cafe (including "fast-food" sales incidental thereto).

Tenant shall require the tenant under the Marketplace Lease (hereinafter "said tenant") to continuously, uninterruptedly, actively and diligently operate a specialty retail marketplace seven days per week, at least nine hours per day on Mondays through Saturdays and six hours on Sundays, and shall require that substantially all Marketplace Subtenants operate and conduct their respective businesses on all such days and for such hours, except when said tenant and/or any Marketplace Subtenant shall be prevented from doing so by strike, fire, other casualty or other cause beyond the reasonable control of said tenant and/or such Marketplace Subtenant, and except on the following holidays: New Year's Day; first and second days of Passover; Good Friday; Easter Sunday; Rosh Hashanah; Yom Kippur; Thanksgiving Day; and Christmas Day.

Tenant shall also make available or cause to be made available to the general public, at least during the hours set forth above (but consistent with reasonable maintenance and security requirements of Tenant, said tenant and the Marketplace Subtenants) and free of charge or admission, all public circulation and seating areas of Pier 17, the pavilion to be erected on Pier 17 and throughout other portions of the Project Premises substantially in accordance with the plans and specifications therefor to be approved in accordance with applicable provisions of the Improvement Agreement by the parties thereto. Without limiting the generality of the foregoing, Tenant shall provide or cause to be provided walkways with adequate public seating areas, an unobstructed view of the water (consistent with said tenant's reasonable structural and exiting requirements), and direct public access (i.e., without having to traverse retail space) along the exterior of the pavilion to be built on Pier 17. Such walkways on the surface deck of Pier 17 shall be not less than 30 feet in width along the southerly side of Pier 17, not less than 40 feet in width along the easterly end of Pier 17 and not less than 25 feet in width on the northerly side between the pavilion and the southernmost portion of the working pier which is located on the northernmost portion of Pier 17 and is designated as such on Exhibit A-1 hereto (the "Working Pier"). Said northerly pub-

Whenever this Lease refers to Rental in respect of any period of time in which (A) Tenant is prevented from using the Stadium for reasons beyond its control (other than a Taking, in which event Article 16 shall govern) (e.g. during a Casualty Restoration) or (b) the Premises is not being used by Tenant due to any default of this Lease by Tenant; then, notwithstanding that Rental is normally determined according to attendance levels and sharing of certain revenues, the parties agree and acknowledge that annual Rental during any such period shall be deemed to be the average amount of annual Rental that was required to be paid by Tenant during the three (3) full Lease Years (or shorter period if less than three (3) full Lease Years have been completed) (but, in either case, skipping any Lease Year(s) in which five (5) or more Team Home Games are canceled due to fire or other casualty covered by rent insurance) immediately preceding the commencement of such a non-use period.

ARTICLE 4
USE OF PREMISES.

Section 4.01 Tenant's Use of Premises.

Tenant may use the Premises for the purposes described in this Article 4, and for no other purposes.

Section 4.02 Required Use by Tenant.

(a) During each Baseball Season in the Term, Tenant shall cause the Team or other Qualifying Team to play all of its Team Home Games at the Premises, and generally to use the Stadium as its home stadium, provided no fire or other casualty has occurred which prevents such use from taking place.

(b) If Tenant is unable to satisfy such requirement due to the fact that the League of which the Team then using the Premises is a member ceases its operations and Tenant does not obtain another Qualifying Team to so play at and use the Premises within one (1) year after such cessation, Tenant shall not be deemed to be in breach of this Lease by reason of such failure, but Landlord and Tenant shall each have the right exercisable by notice to the other to terminate this Lease, in which event neither party shall have any further obligations to the other except for any obligations that arose prior to such termination. If either party so terminates, Landlord shall afford Tenant such time as is necessary for Tenant to vacate the Premises in an orderly manner prior to such termination, but in any event no more than thirty (30) days.

(c) In connection with Tenant's obligation under this Section 4.02, Tenant shall use reasonable efforts to cause the Team then using the Premises hereunder to maintain its status and franchise as a member of a League and to continue to be party to a PDC.

(d) Tenant hereby warrants and represents that all approvals and consents required from the League and the National Association of Professional Baseball Leagues, Inc. or required pursuant to any Professional Baseball Regulations

to allow and authorize the Team to use the Stadium as its home stadium have been obtained or will be obtained prior to the Use Commencement Date.

Section 4.03 Tenant's Right to Use the Premises for Tenant Events.

(a) Tenant shall have the right to use the Premises for all Team Home Games. No Team Home Games shall have a scheduled starting time later than 8:00 P.M. on any day or before 7:00 P.M. on any Business Day, unless an earlier or later scheduled starting time is rendered necessary by events beyond Tenant's control such as games rescheduled by the League because of rainouts.

(b) Tenant shall have the right to use the Premises for (i) Team Events that are not Team Games, and (ii) for all other purposes, including, without limitation, entertainment, sporting, cultural, recreational, community and civic events (such events for all such other purposes described in clause (ii) hereof are hereinafter referred to collectively as "Special Events"), subject to the Requirements and to Landlord's approval rights under Section 4.11.

(c) Tenant shall have the right to charge admission or usage fees for all Tenant Events, and to determine the prices and terms of tickets to Tenant Events. Without limiting the foregoing, Tenant recognizes that one of the purposes of the Stadium Project and this Lease is to make available to the residents of Staten Island and the City reasonably affordable family entertainment, and shall endeavor to take such goal into account when determining admission prices for Team Events.

(d) Tenant shall have the right to use the Premises and all areas therein for television and radio broadcasting and press coverage of Tenant Events.

(e) Tenant shall have the right to use the Premises for all purposes incidental to Tenant Events.

Section 4.04 Landlord's Luxury Suite and Priority Tickets, and Charity Tickets.

(a) Landlord shall be entitled to use, on an exclusive basis, one (1) luxury suite (hereinafter, "Landlord's Suite") during all Tenant Events at no admission or other charge by Tenant or any of its Subtenants. Such luxury suite shall be in a location comparable to the location of the luxury suite used by Tenant's principals, and shall be large enough to accommodate no less than twelve (12) persons. Exhibit 4.04(a) showing Landlord's Suite shall be prepared as soon as practicable.

(b) Landlord shall be entitled to purchase twenty-five (25) tickets to each Tenant Event consisting of the best seats then available as determined by Tenant in its sole and absolute discretion, provided that Landlord must exercise its right to purchase such tickets no later than five (5) days prior to the applicable Tenant Event.

(c) Tenant shall make at least twenty-five (25) complimentary tickets to each Team Home Game available to charity or other appropriate non-profit groups at no admission or other charge by Tenant or any of its Subtenants.

Section 4.05 Sharing of Revenues from Special Events.

(a) Tenant shall pay to Landlord an amount equal to thirty percent (30%) of all Shared Special Event Net Income received by or for the account of Tenant or an Affiliate, directly or indirectly from, in connection with, or arising out Special Events held during each particular Lease Year.

(b) (i) Tenant shall pay to Landlord its share (if any) of Shared Special Event Net Income in respect of a particular Lease Year within thirty (30) days after the end of such Lease Year.

(ii) Together with each such annual payment (or, if no payment is due, in lieu of such payment), Tenant shall deliver to Landlord a statement, prepared by its managing member or a duly authorized officer, setting forth the total amount of Special Event Net Income for the Lease Year to which the statement pertains, and the details of such calculations.

(c) Definitions.

(i) "Shared Special Event Net Income" shall mean, for each Lease Year, the aggregate amount of Special Event Net Income received by or for the account of Tenant or an Affiliate, directly or indirectly from, in connection with, or arising out of each and every Special Event during such Lease Year, less the amount of One Hundred Forty-Three Thousand Dollars ($143,000) (which amount shall be subject to a CPI Adjustment at the commencement of the fourth (4th) Lease Year, and at the commencement of every third (3rd) Lease Year thereafter).

(ii) "Special Event Net Income" shall mean the Special Event Revenues from a particular Special Event, less the Special Event Expenses in respect of such Special Event.

(iii) "Special Event Revenues" shall mean the total of all receipts, revenues, fees, proceeds, property (valued according to its fair market value), and other forms of consideration (including, without limitation, rental, sponsorship, concession, advertising and broadcasting revenues, and admission, parking, license and use fees) received by or for the account of Tenant or an Affiliate, directly or indirectly from, in connection with, or arising out of such Special Event, but excluding therefrom sales taxes. Special Event Revenues shall include a pro-rata portion of any consideration, other than amounts derived from Advertising Signage and Naming Rights, that (1) is received by or for the account of Tenant or an Affiliate for or in respect of the right to use the Premises or to

Any Imposition relating to a fiscal period of the taxing authority, a part of which fiscal period is included within the Term and a part of which is included in a period of time after the Expiration Date, shall be apportioned pro rata between Landlord and Tenant as of the Expiration Date (unless the Expiration Date has occurred as a result of an Event of Default, in which case Tenant shall not be entitled to an apportionment except for the purpose of applying such amount as a credit pursuant to Section 22.03(b) hereof).

Section 5.05. Taxes.

Provided the City shall be Landlord, Landlord shall pay, cancel, or otherwise satisfy and discharge of record any and all Taxes on or before the due date thereof (which may be by bookkeeping entry, interdepartmental direction or other manner or procedure selected by Landlord). If the City shall cease to be Landlord, any new Landlord shall pay the Taxes on or before the due date thereof, it being understood that under no circumstances shall Tenant pay Taxes. If Landlord shall have failed to pay or discharge the Taxes as required hereunder and Tenant shall not have timely commenced a proceeding to contest the same as provided in Section 33.01 hereof, or if Tenant shall have timely commenced such a proceeding to contest the Taxes but failure to pay the Taxes during the pendency of such proceeding will result in the imminent loss or forfeiture of the Premises and the termination of Tenant's interest under this Lease or Tenant would by reason thereof be subject to any civil or criminal penalty or liability, then Tenant may pay such unpaid Taxes together with any interest or penalties thereon and deduct such payment from the next Rental due, with interest at the rate (the "City's Payment Rate") which is the lesser of the New York City Department of Finance Penalty Rate (18%) or the interest rate specified in Section 3-a(1) of the General Municipal Law of the State of New York, as it may be amended from time to time.

Section 5.06. Intentionally Omitted.

Section 5.07. Intentionally Omitted.

Section 5.08. Survival.

The provisions of this Article 5 shall survive any termination of this Lease.

ARTICLE 6

USE AND DEVELOPMENT OF PREMISES

Section 6.01. Permitted Uses. Tenant shall use and occupy the Premises for the purpose of receiving, processing, handling (including packaging), distributing, and warehousing, of food products and beverages and other ancillary products provided, however, that non-food items shall not consist of more than twenty-five percent (25%) of Tenant's inventory of the Premises and no other purpose and provided further, that Tenant shall not use the Premises for wholesale purchase, sale or distribution of fresh seafood. Tenant and Tenant's servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, any reasonable restrictions on use as Landlord may from time to time adopt, provided same do not materially interfere with Tenant's Permitted Uses. Notice of any additional restrictions shall be given at least thirty (30) days in advance of the date such restriction is proposed to become

effective. Notwithstanding anything contained in this Section to the contrary, Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

Section 6.02. Requirements for Conduct of Business Tenant acknowledges that the Property and the Premises are part of a "public market" under § 260 *et seq.* of the New York Agriculture and Markets Law and of a "public wholesale market" under § 22-251(h) of the New York Administrative Code. Tenant further acknowledges and agrees that it shall comply with the requirements as required pursuant to the general provisions of Article 14 hereof.

Section 6.03. Unlawful Use; No Representation of Landlord.

(a) During the Term, Tenant shall not use or occupy the Premises or permit or suffer the Premises, or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any of the Requirements, any certificate of completion or occupancy affecting the Premises or this Lease or in such manner as may make void or voidable any insurance then in force with respect to the Premises, the Building or the Property. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof. Tenant shall not keep anything in the Premises which may cause or be apt to cause structural injury to the Premises or any part thereof, or as will constitute a public or private nuisance, or anything except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction, and then only in such manner and such quantity so as not to make it difficult or impossible to obtain fire insurance for the Premises or increase the rate for fire insurance applicable to the Building, nor use the Premises in a manner which will increase the insurance rate for the Building or any property located therein over that otherwise in effect. If by reason of Tenant's failure to comply with the foregoing the fire insurance rate shall, at any time, be higher than it otherwise would be, then Tenant shall be obligated to pay such additional cost which shall have been charged because of such failure by Tenant.

(b) Any installation on any floor of the Premises shall be placed and maintained by Tenant, at Tenant's expense, in settings sufficient, in Landlord's reasonable judgment, to absorb and prevent vibration, noise and annoyance.

(c) Tenant shall use its best efforts, at Tenant's expense, to contain any odors that may arise from Tenant's use of the Premises in accordance with this Section.

(d) Any installation on or activity conducted at the Premises shall incorporate advances in the art of noise control and odor control, as applicable, developed for the kind and level of noise or odor, as applicable, emitted or produced by such installations or activity, all in accordance with or required by any applicable regulations issued by the New York City Department of Environmental Protection of the City, or its successor, or any other relevant agency or authority.

(e) Tenant may not, without Landlord's prior written approval in each instance, conduct any excavation on the Premises, Common Facilities or Land including but not

limited to any digging-up or removal of any soil ("Excavation Work"). Furthermore, any request to conduct any Excavation Work shall be accompanied by a detailed description of the Excavation Work and the precise location thereof, submitted to Landlord not less than thirty (30) days prior to the date on which Tenant would like to commence the Excavation Work. Landlord may, together with its written approval of such Excavation Work, require that the Excavation Work be monitored or conducted by Administrator's environmental consultant and the costs attributable to the environmental consultant in connection with Tenant's excavation request shall be paid for on a reimbursement basis by Tenant within twenty (20) days following submission by Administrator of a detailed bill of any such expenses. Tenant shall cooperate in good faith with Administrator and its environmental consultant with respect to and during the performance of Excavation Work. However, in the event Excavation Work is necessary on an emergency basis and accordingly it is necessary for the Excavation Work to be performed in a brief period of time, Tenant must, state on the heading of the notice, in large bold letters:

"EMERGENCY EXCAVATION REQUEST PURSUANT TO SECTION 6.03 OF THE SULTANA LEASE AT 600 FOOD CENTER DRIVE, HUNTS POINT",

in which case the required thirty (30) day advance notice shall not apply and provided further, that if the emergency Excavation Work must be conducted prior to the arrival of Administrator's environmental consultant then Tenant shall separate any excavated soil and secure it at the Premises in a container or on a tarp.

(f) Landlord makes no representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction or an administrative law judge, Tenant agrees that neither Landlord nor Administrator nor any of their respective agents, officers and employees, or any person whatsoever, shall be liable for any damages arising out of or related to such illegal use or proposed use.

ARTICLE 7

INSURANCE

Section 7.01. Insurance Requirements.

(a) Tenant shall purchase, maintain and keep in full force and effect throughout the Term, at Tenant's sole cost and expense, with respect to the Premises, and the operations related thereto, whether conducted on or off the Premises, insurance coverage of the types and in the minimum limits as follows:

(i) Liability Insurance. Commercial General Liability Insurance, on an occurrence basis, containing no exclusion for sprinkler or water damage, legal liability or any other hazard customarily covered by such insurance, designating Landlord, Administrator and Apple as additional insureds, on a primary and non-contributory basis, providing coverage against assumed or contractual liability under this Lease and claims for personal injury, bodily injury, death and property damage, occurring on, in or about the Premises and the streets and sidewalks adjacent to the Premises, (or in connection with Tenant's use of any rail service should it become available) such insurance to have a limit per occurrence of not less than five

connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 20
PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 20.01. Permitted Uses.

(a) Except as otherwise provided in subparagraph (b), Tenant shall use and occupy the Premises solely for the selling, buying, receiving, brokering, processing, handling (including packaging) and distribution of fish and seafood products and other food products commonly sold or distributed at wholesale seafood distribution centers ("Seafood Distribution Uses"), and for uses ancillary thereto, including offices, storage, parking, locker rooms, a restaurant and/or commissary, banking facilities, and the sale of materials and supplies. The Premises is acknowledged to be a "market" under former § 259 et seq. of the New York Agriculture and Markets Law. In exercising its rights under this Lease, the Landlord shall apply the Market Rules and Regulations and all amendments thereto as the same shall have been promulgated by the City's Department of Business Services (or successor or replacement thereto) in its regulatory capacity.

(b) (i) During the Lease term, Tenant shall have the right to request from time to time, by written notice to Landlord, that the scope of the Permitted Uses be modified to include the selling, buying, receiving, brokering, processing, handling (including packaging) and distribution of foods products other than seafood on the grounds that (X) that there has been a significant decline in the availability of seafood product for wholesale distribution by the Subtenants, and/or (Y) there has been a material change in wholesale seafood market conditions that materially and adversely affects the long-term viability of the wholesale seafood distribution businesses at the Premises. Tenant shall include with any such request all information reasonable necessary to substantiate the foregoing, and any other information that Landlord shall request.

(ii) Landlord shall have the right to accept or deny Tenant's request to modify the scope of Permitted Uses, in whole or in part, in its reasonable discretion, provided that Landlord shall give prompt and good faith consideration to such request, and, in responding thereto, shall endeavor to take into account the designation of the premises as a wholesale seafood market, the market conditions and any other factors that concern the long-term viability of the wholesale seafood distribution businesses at the Premises.

Section 20.02. Compliance with Laws and Insurance Policies. Tenant agrees that it will not use or permit any person to use the Premises or the Permit Area or any part thereof for any use or purpose in violation of this Lease, or of any present or future Requirements, orders, directions, rules or regulations. Tenant shall not use or occupy the Premises or the Permit Area, or permit the Premises or the Permit Area be used or occupied, nor do or permit anything to be done in or on the Premises or the Permit Area, in whole or in part, for any unlawful or illegal business use or purpose or for any purpose or in any way in violation nor this Article or any other provision of this Lease, or in a manner which would in any way violate any certificate of completion or occupancy affecting the Premises or the Permit Area, or make void or voidable any insurance then in force with respect thereto, or which may make it difficult or impossible to obtain fire or other insurance thereon, or as will cause or be apt to cause structural injury to the Premises or the Permit

Area or any part thereof, or as will constitute a public or private nuisance. During the term of this Lease, Tenant, at its sole cost and expense, shall promptly comply with all Requirements foreseen and unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises or the Permit Area, or any part thereof, or to the use or manner of use of the Premises or the Permit Area, or the owners, tenants or occupants thereof, even though such Requirement shall necessitate structural changes, repairs or improvements, or the use or application of portions of the Premises or the Permit Area, for compliance therewith, and even though compliance with the provisions of this Section 20.02 may interfere with the use and enjoyment of the Premises or the Permit Area.

Section 20.03. No Representation of Landlord. Except for the uses identified in and permitted by Section 20.01 of this Lease, Landlord makes no representation as to the legality of the use of the Premises or the Permit Area for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction or an administrative law judge, Tenant agrees that neither Landlord nor Administrator nor any of their respective agents, officers and employees, or any person whatsoever, shall be liable for any damages arising out of or related to such illegal use or proposed use.

Section 20.04. Restriction on New Seafood Markets. During the Term, Landlord shall not actively promote or develop in the City of New York any other "public wholesale market" (as defined in Section 22-251(h) of the City's Administrative Code) for the wholesale distribution of seafood, provided that this provision is not intended to and shall not preclude Landlord, acting in its governmental capacity, from designating any area(s) in the City as a public wholesale market or a public seafood market for the primary purpose of regulating the same.

ARTICLE 21
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 21.01. Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) (i) if Tenant shall fail to make any payment (or any part thereof) of Rental as and when due hereunder and such failure shall continue for a period of ten (10) days after notice;

(ii) if Tenant shall fail to maintain the Premises or the Permit Area as provided in Sections 11.01 and 11.03 hereof and if such failure shall continue for a period of thirty (30) days after notice (unless such failure requires work to be performed, acts to be done or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such thirty (30) day period, in which case no Event of Default shall exist as long as Tenant shall have commenced curing the same within the thirty (30) day period and shall diligently and continuously prosecute the same to completion within a reasonable period);

(b) if Tenant shall enter into (or permit to be entered into) a Capital Transaction, or any other transaction, in violation of the provisions of this Lease and such Capital Transaction or other transaction shall not be made to comply with the provisions of this Lease or canceled within fifteen (15) days after Landlord's notice thereof to Tenant;

Trustees of Columbia University

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ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Permitted Use Generally.

(a) ARB Parcel. Effective upon the Substantial Completion Date, Tenant shall use and operate the ARB Premises for a building providing rentable laboratory space for Biotechnical Uses above the ground floor, and accessory facilities (such as a cafeteria) and retail space on the ground floor, subject to the provisions of this Article 23. The laboratory space shall be rented in accordance with Section 23.03 hereof.

(b) Additional Parcel I. Prior to commencing construction of Additional Building I, Tenant shall install surface parking facilities at Additional Parcel I and use said Additional Parcel I for New Building ancillary surface parking and landscaping. Thereafter, Tenant shall use Additional Parcel I for construction and operation of Additional Building I, in accordance with the Development Plan. Additional Building I shall include no more zoning floor area than remains allowable under the zoning law of the City after taking into account the presence of the New Building and the Preservation Project. Until the twenty-fifth (25th) anniversary of the Substantial Completion Date, Additional Building I shall be used solely for Biotechnical Uses and no more than 50% of the Rentable Area in Additional Building I shall be used for Academic Uses. Notwithstanding the preceding, Tenant may use the space in in Additional Building I for uses other than Biotechnical Uses provided that (a) in no event is more than 50% of the Rentable Area in Additional Building I used for Academic Uses, and (b) Tenant pays Landlord prior to commencing any non-Biotechnical Use an amount equal to the excess, if any of (i) the value of Additional Parcel I appraised for the uses proposed by Tenant over (ii) the prorated portion of the Initial Payment attributable to Additional Parcel I plus an amount equal to interest thereon accruing from the Commencement Date compounded on the first anniversary of the Commencement Date and each whole or partial anniversary thereafter on an annual basis (except for any last partial year) at the Market Rate prevailing on each such anniversary.

(c) Additional Parcel II. Prior to commencement of construction of Additional Building II, Tenant shall either keep Additional Parcel II vacant or use it for New Building ancillary surface parking. Thereafter Tenant shall use Additional Parcel II for construction and operation of Additional Building II, in accordance with the Development Plan.

Section 23.02 Prohibited Uses.

(a) ARB Premises and Additional Premises I. Tenant shall not use or occupy the ARB Premises or Additional Premises I for, and shall use reasonable efforts to prevent the ARB Premises and Additional Premises I or any part thereof from being used or occupied for, any illegal business, use or purpose, or for any purpose in violation of the provisions of this Article 23 or the Certificate(s) of Occupancy therefor, or in such manner as may make void or voidable any insurance then in force with respect to the ARB Premises or Additional Premises I. Immediately upon its discovery of any such illegal business, use or purpose, or use or occupation in violation of this Article 23, Tenant shall take all reasonable steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal of any Subtenants using a portion of the ARB Premises or Additional Premises I for any illegal business, use or purpose or in violation of this Article 23.

(b) Additional Premises II. Tenant shall, promptly after the Commencement Date, construct and thereafter maintain until construction of a building at Additional Premises II, a security fence along the boundaries of Additional Premises II. After a building has been constructed on Additional Premises II, Tenant shall have the same obligations with respect to Additional Premises II as it does with respect to the rest of the Premises under the preceding subsection (a).

Section 23.03. New Building Space Leasing Requirements.

(a) Generally. Tenant shall lease space in the New Building to small, start-up or developing Firm(s) (as hereinafter defined) for Biotechnical Uses (hereinafter referred to as "Incubator Firm(s)") as well as to Firm(s) operating an established business for Biotechnical Uses (hereinafter referred to as "Established Firm(s)") in accordance with this Section 23.03. For purposes of this Lease, a Firm shall mean an individual, business or not-for-profit corporation, partnership, joint venture, estate, trust, unincorporated association, foundation, any Federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing; provided, however, that an Incubator Firm(s) shall not include an estate, trust, or foundation, or any Federal, state, county or municipal government or any agency, department or bureau thereof or any fiduciary acting in such capacity on behalf of any of the foregoing. In no event shall any Firm be an Incubator Firm if it has occupied space in the New Building for more than five years. After five years of such occupancy a Firm shall be deemed to be an Established Firm. Attached hereto as Exhibit F are guidelines, agreed upon by Tenant and the Public Parties, for a tenant selection process including guidelines for screening and defining Incubator Firms and departure from said guidelines with respect to any Sublease, and any change in such guidelines, shall be subject to the prior review and approval of

each of the Public Parties, which approval shall not be unreasonably withheld.

(b) First Period. (i) Incubator Firms/Established Firms. From the Substantial Completion Date through the third anniversary thereof (the "First Period"), Tenant shall use all reasonable efforts to lease (x) a minimum of forty percent (40%) of the non-retail Rentable Area in the New Building to Incubator Firms (space leased to Incubator Firms to be referred to hereinafter as the "Incubator Space") and (y) approximately sixty percent (60%) of the non-retail Rentable Area in the New Building to Established Firms.

(ii) Initial Rent-Up. If despite Tenant's reasonable efforts, after the first anniversary of the Substantial Completion Date the amount of Incubator Space is below the forty percent minimum set forth in the preceding sentence, Tenant may use the Temporary Use Space as provided in Section 23.03(f). If after the second anniversary of the Substantial Completion Date the amount of Incubator Space is still below said forty percent minimum, Tenant may use the Temporary Use Space for Established Firms.

(iii) Subsequent Vacancy. If at any time during the First Period that space previously leased becomes vacant the amount of Incubator Space is, or, as a result of such vacancy, drops, below the forty percent minimum set forth above, the space that has become vacant shall not be leased other than to Incubator Firms for four successive months after such vacancy has occurred. If after such four successive month period Tenant has, despite Tenant's reasonable efforts, been unable to rent such space to Incubator Firms, Tenant may rent such space to Established Firms (subject to the reasonable approval of UDC acting for the Public Parties) or may use it as provided in Section 23.03(f) below.

(c) Second Period. Following the expiration of the First Period, through the earlier to occur of (i) the Public Investment Repayment Date, or (ii) the 15th anniversary of the Substantial Completion Date (the "Second Period"), Tenant shall continue to rent any available non-retail space to Incubator Firms and Established Firms so that at least 40% of the non-retail Rentable Area in the New Building is leased to Incubator Firms except as provided in (1) and (2) below:

(1) (A) During the Second Period, if less than 40% of non-retail Rentable Area in the New Building is at any time being leased to Incubator Firms, any vacant non-retail space shall be held vacant and available for Incubator Firms for four successive months. Thereafter, Tenant may rent such space to Established Firms (subject to the reasonable approval of UDC, acting for the Public Parties, if less than thirty percent (30%) of the non-retail Rentable Area in the

and Bonds and all other obligations of UNDC as provided in the Bond Proceedings, this Lease shall terminate and the rent and other charges payable by UNDC hereunder shall be apportioned and paid by UNDC to the date of such termination.

ARTICLE VII

COVENANTS TO MAKE REPAIRS AND AGAINST WASTE

Section 7.01. UNDC, at its sole cost and expense, shall at all times during the term of this Lease keep and maintain, or cause to be kept and maintained, the Project, both inside and outside, in good state of repair, acts of God excepted, and shall not permit, commit or suffer any waste of the whole or any part of the Project.

ARTICLE VIII

COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

Section 8.01. During the term of this Lease, UNDC, at its sole cost and expense, shall promptly comply or cause compliance with all applicable laws, ordinances, orders, rules, regulations and requirements, present and future, of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof, and with applicable orders, rules and regulations of the New York Board of Fire Underwriters, or any other body hereafter constituted exercising similar functions. Nothing contained in this Lease shall require UNDC or any subtenant of UNDC to obtain any permit or approval from any department, commission, board, agency or officer of the City that UNDC or its subtenants would not otherwise be required to obtain, or confer on UNDC or any subtenant of UNDC any

right to obtain any permit or approval except upon compliance with applicable requirements of the departments, commissions, boards, agencies and officers of the City having jurisdiction thereof.

Section 8.02. UNDC shall have the right to contest by appropriate legal proceedings prosecuted with reasonable diligence and dispatch, in its name or the name of the City, the validity or application of any law, ordinance, order, rule, regulation or requirement, and if compliance therewith pending the prosecution of any such proceeding is held in abeyance by the court or agency reviewing the matter, UNDC may postpone compliance until the final determination of any such proceedings provided that UNDC furnishes the City security, reasonably satisfactory to the City, against any loss or injury the City may sustain as owner of the Project by reason of such noncompliance or delay therein. The City shall execute and deliver any papers which may be necessary or proper to permit UNDC to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement.

ARTICLE IX

LIENS

Section 9.01. Except as otherwise provided in this Lease, UNDC, at its sole cost and expense, shall keep the Project and the Sidewalk Portion of Parcel 20 free and clear of all liens and encumbrances of every kind and character whatsoever, including mechanics', laborers' and materialmen's liens and other liens of a similar nature, and within thirty (30) days after notice of

filing of any such lien, shall cause the same to be discharged by payment, deposit, bond or otherwise or shall diligently defend, or institute and diligently prosecute, such proceedings as may be appropriate to discharge the same.

Section 9.02. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials with respect to the Project, or any part thereof. Notice is hereby given that the City shall not be liable for any work performed or any materials furnished or to be furnished with respect to the Project and that no mechanic's lien for such work or materials shall attach to the fee interest of the City in and to the Project.

ARTICLE X

SURRENDER OF THE PROJECT AREA

Section 10.01. On the Expiration Date or upon any earlier termination of this Lease, UNDC shall surrender and deliver up the Project and the Sidewalk Portion of Parcel 20 unto the possession and use of the City free and clear of all agreements respecting the Project or the management or operation thereof, and all licenses and subtenancies, other than subtenancies which the City agrees to recognize as provided in Section 11.05 hereof, and free and clear of all liens and encumbrances other than those, if any, created by the City, or existing on the Commencement Date, without any payment or allowance whatever

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with the provisions hereof or any other right or remedy permissible hereunder, may (but shall not be required to):

(a) pay for and maintain any of the insurance policies required to be furnished by Tenant pursuant to Article 7 hereof, or

(b) make any other payment or perform any other act on Tenant's part to be made or performed as in this Lease provided (except for (x) any maintenance or repair obligation imposed on Tenant pursuant to Article 14 hereof, or (y) any act which would require Landlord, its agent, employee, contractor, or any other person acting on Landlord's behalf to enter upon the Premises or any portion thereof for any such purpose), and may take all such action as may be necessary therefor. Notwithstanding the foregoing, neither Landlord nor any agent, employee, contractor or any other person acting on Landlord's behalf may enter upon the Premises or any portion thereof for any such purpose.

Section 22.02. Amount Paid by Landlord as Additional Rental. All reasonable sums so paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the Late Charge Rate from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense, shall constitute, following notice from Landlord to Tenant, additional Rental under this Lease and shall be paid by Tenant to Landlord on the first day of the month following the giving of such notice.

Section 22.03. Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease in accordance with the provisions hereof and/or to take such other action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.04. Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the reasonable costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Permitted Uses. Tenant shall redevelop, use, and operate the Premises subject to the terms and conditions set forth in this Lease and solely in a manner consistent with, and for, the following purposes:

(a) The Building. After Substantial Completion the Building shall be subleased to space tenants by the Developer and used predominately for the operation of retail and/or food service uses, provided, however, that Tenant shall cause 3,000 square feet of the basement of the Building to be utilized as a center for training in garment industry operations or for other uses beneficial to the community and approved in writing by Administrator which approval shall be granted or withheld in Administrator's sole discretion, acting in good faith.

(b) All operations at the Premises shall comply with the Requirements set forth in Article 16 including, but not limited to the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act.

Section 23.02. Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied as a factory ("Factory" or "Factory Building") as defined under McKinney's Labor Law § 2(9) and (10), for any unlawful or illegal business, use or purpose, or for any purpose, or in any way, in violation of the provisions of Section 23.01 or Article 16 hereof or the Certificate(s) of Occupancy for the Premises, or in such manner as may make void or voidable any insurance then required to be carried under Article 7 hereof. Immediately upon discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using any portion of the Premises as a Factory, for any unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16 hereof.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) (i) if Tenant shall fail to make any payment (or any part thereof) of Rental (including, without limitation, Base Rent, Additional Rent or PILOT as and when due hereunder and such failure shall continue for a period of fifteen (15) days after notice;

(ii) if Tenant shall fail to maintain the Premises as provided in Section 14.01 and 14.03 hereof and if such failure shall continue for a period of fifteen (15) days after notice (unless such failure requires work to be performed, acts to be done or conditions to be removed which cannot, by their nature, reasonably be performed, done or removed within such fifteen (15) day period, in which case no Event of Default shall exist as long as Tenant shall have commenced curing the same within the fifteen (15) day period and shall diligently and continuously prosecute the same to completion within a reasonable period;

(b) if Tenant shall fail to Commence Construction and/or Commence Renovation within the time period provided for such Commencement in Article 13 hereof, and such failure shall continue for a period of sixty (60) days after notice thereof from Landlord (subject to Unavoidable Delays not to exceed a period, in the aggregate, of one year), or if

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SITE 7 ACQUISITION AGREEMENT

among

THE CITY OF NEW YORK,

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION,

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

and

42ND ST. DEVELOPMENT PROJECT, INC.

Premises

Block: 1014
Lots: 1, 4, 5, 6, 10, 11, 111, 12, 13(P/O), 15, 58, 59, 60, 61, 62, 162, 63, 64

dated

as of October 7, 1994

ARTICLE 7

USE OF THE PROPERTY

Section 7.01. Permitted Use.

(a) Use. From and after the Substantial Completion Date, the Entertainment/Retail Project shall be used, occupied, operated and maintained in accordance with the applicable requirements of DUO and for the following uses only and for no other purpose: (i) during the period from the Substantial Completion Date through and including the day immediately preceding the nineteenth (19th) anniversary of the first to occur of (x) the date on which Tenant shall have achieved the Initial Minimum Required Occupancy Level, and (y) the Initial Occupancy Date, (A) for the permitted uses expressly set forth in Exhibits 1 and 2 of Schedule G attached hereto and (B) so as to cause the overall perception created to be that the Entertainment/Retail Project is a major entertainment destination supported by complementary retail and/or restaurant uses, it being understood that this impression will be achieved through a combination of use, design and signage; and (ii) during the period commencing on the nineteenth (19th) anniversary of the first to occur of (x) the date on which Tenant shall have achieved the Initial Minimum Required Occupancy Level, and (y) the Initial Occupancy Date, for the permitted uses expressly set forth in Exhibits 1, 2 and 3 of Schedule G attached hereto (collectively, "*Permitted Use*"). Tenant agrees not to use, permit or suffer the Property to be used for any purposes not expressly permitted under this Section 7.01(a) without the prior written consent of Landlord. Landlord agrees that for purposes of satisfying the use requirements of DUO and of this Section 7.01(a), the Anchor Theater Sublease (or, in the event of the termination or amendment of such Sublease, any Sublease entered into after such termination or any amended Sublease resulting from such amendment, in either case, covering all of the area of the Improvements previously covered by such Sublease immediately prior to such termination or amendment and occupied for uses permitted under Exhibit 1 of Schedule G hereto), shall be deemed to cover the greater of fifty percent (50%) of the square footage of the Improvements and the actual percentage of the square footage of the Improvements covered by such Sublease.

(b) Access. Subject to Section 7.11, Tenant shall designate and use, or cause to be used, 42nd Street as the main entrance for all stores located on the ground floor of 42nd Street, it being understood that the stores located on the ground floor at 42nd Street will have individual entrances and shall otherwise comply with the requirements in Schedule G attached hereto. Notwithstanding anything to the contrary herein, for so long as (i) Loews Festival Cinemas, Inc. ("*Anchor Theater Tenant*") or its successors and/or assigns under the Anchor Tenant Sublease, as amended from time to time, or any Subtenant of Anchor Theater Tenant, its successors or assigns under the Anchor Theater Sublease, as amended from time to time, occupy and use at least 70,000 square feet of Usable Area at the

Entertainment/Retail Project for movie theaters or, if permitted by such Sublease, for other uses expressly set forth on Exhibit 1 to Schedule G, (ii) the Anchor Theater Tenant and/or its Affiliates remain liable for the obligations of the Subtenant from time to time under such Sublease, as amended from time to time, and (iii) the main entrance to the lobby of the premises leased pursuant to the Anchor Theater Sublease, as amended from time to time, is on 42nd Street, the Anchor Theater Tenant and its Affiliates (and the successors and assigns of either of them) and their respective Subtenants in such premises shall be permitted to operate (or Sublet for operation by others) up to two (2) stores on the ground floor of the premises covered by the Anchor Theater Sublease, as amended from time to time, which stores do not have entrances on 42nd Street. For avoidance of doubt, Landlord confirms and agrees that any areas of said ground floor premises covered by the Anchor Theater Sublease, as amended from time to time, which are used for the sale of food, merchandise or other retail purposes and which are not separately demised and physically separated from the balance from the said ground floor space shall not be considered "stores" for purposes of this Lease. "***Anchor Theater Sublease***" means the Sublease dated on or about the date hereof between Anchor Theater Tenant, as tenant, and Tenant, as landlord, and shall include, for purposes of Section 7.01(b) and Section 7.16 only (other than the definition of "Bona Fide Termination", as defined in Section 7.16(a), one or more Subleases from Tenant to one or more Affiliates of Anchor Theater Tenant, provided that (x) all Subleases to Anchor Theater Tenant and its Affiliates are coterminous; (y) the Anchor Theater Tenant and/or its Affiliates remain liable for the obligations of the Subtenants under all such Subleases; and (z) such Subleases in the aggregate (treated as if they were a single Sublease), would comply with the provisions of clauses (i) and (iii) of this subparagraph (b).

(c) **Required Leasing Levels.** (i) Tenant shall, in accordance with this Article 7 and Articles 11, 12 and 13, enter into Subleases by the Fixed Substantial Completion Date (the "***Initial Leasing Date***"), TIME BEING OF THE ESSENCE as to the Initial Leasing Date, such date to be extended as, when and to the same extent that the Fixed Substantial Completion Date or the Initial Leasing Date is extended, if at all, for Unavoidable Delays in accordance with Section 6.06 and pursuant to Section 6.01(a), so as to satisfy the following requirements (collectively, the "***Initial Minimum Required Leasing Level***"):

(A) there shall be Subleases with Subtenants covering not less than sixty-one percent (61%) of the Usable Area of the Entertainment/Retail Project; and

(B) there shall be Subleases with Subtenants covering not less than fifty percent (50%) of the Usable Area of the Entertainment/Retail Project for the uses described on Exhibit 1 of Schedule G attached hereto.

(ii) Tenant shall, in accordance with this Article 7 and Articles 11, 12 and 13, enter into Subleases by the date twelve (12) months after the Fixed Substantial

Completion Date (the "***Second Leasing Date***"; collectively with the Initial Leasing Date, the "***Leasing Dates***"), TIME BEING OF THE ESSENCE as to the Second Leasing Date, such date to be extended as, when and to the same extent that the Fixed Substantial Completion Date is extended, if at all, for Unavoidable Delays in accordance with Section 6.06 and pursuant to Section 6.01(a), so as to satisfy the following requirements (the "***Second Minimum Required Leasing Level***"; collectively with the Initial Minimum Required Leasing Level, the "***Minimum Required Leasing Levels***"):

(A) there shall be Subleases with Subtenants covering not less than eighty percent (80%) of the Usable Area of the Entertainment/Retail Project; and

(B) there shall be Subleases with Subtenants covering not less than fifty percent (50%) of the Usable Area of the Entertainment/Retail Project for the uses described on Exhibit 1 of Schedule G attached hereto.

(iii) For purposes of this Section 7.01(c), Tenant shall be deemed to have entered into a Sublease covering any space that is expressly deemed to be in Full Operating Condition under Articles 7, 11 and 12, except Section 7.01(h)(ii).

(d) **Required Occupancy Levels.** (i) Not less than 61% of the Usable Area of the Entertainment/Retail Project shall be in Full Operating Condition (the "***Initial Minimum Required Occupancy Level***") by the date that is the last day of the 34th month following the calendar month in which falls the Construction Commencement Date (as extended from time to time in accordance with the express terms of this Lease, the "***Initial Occupancy Date***").

(ii) Not less than 80% of the Usable Area of the Entertainment/Retail Project shall be in Full Operating Condition (the "***Second Minimum Required Occupancy Level***"; collectively with the Initial Minimum Required Occupancy Level, the "***Minimum Required Occupancy Levels***") by the date that is the last day of the 46th month following the calendar month in which falls the Construction Commencement Date (as extended from time to time in accordance with the express terms of this Lease, the "***Second Occupancy Date***"; collectively with the Initial Occupancy Date, the "***Occupancy Dates***").

(iii) TIME IS OF THE ESSENCE as to the Occupancy Dates, provided, however, that:

(A) each Occupancy Date shall be extended as to all Demised Space in the Entertainment/Retail Project as and when and to the same extent that the Fixed Substantial Completion Date or an Occupancy Date is extended, if at all, for Unavoidable Delays in accordance with Section 6.06 or pursuant to Section 6.01(a);

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AMENDED AND RESTATED

AGREEMENT OF LEASE

between

42ND ST. DEVELOPMENT PROJECT, INC.,
Landlord

and

THREE TIMES SQUARE CENTER PARTNERS, L.P.,
Tenant

Premises

Block: 1014
Lots: 28, 33, 134, 35, 36, 136 and 37
Borough of Manhattan
City, County and State of New York

Dated as of October 7, 1994

#40062304.2

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises throughout the Term only as a first-class office building, with restaurant, retail (as permitted in the Retail Guidelines), service, classroom, showroom, parking, back office, storage and other uses incidental thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the operation of a first class office building located in New York City.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and, subsequent to the delivery of Possession of any Parcel in the Premises to Tenant, neither permit nor suffer such Parcel to be used or occupied, for any retail use other than as permitted in Article 5, the Retail Guidelines or for any unlawful or illegal business, use or purpose or for any purpose or in any way in violation of the certificate(s) of occupancy therefor or for any use not permitted by Section 23.1 (any such use herewith referred to as a "Prohibited Use"). Promptly upon its discovery of any such Prohibited Use subsequent to delivery of Possession of the Premises, Tenant shall take or cause to be taken all necessary steps, legal and equitable, to compel the discontinuation of such Prohibited Use, including, if necessary, the removal from the Premises of any Subtenants using any portion of the Premises for a Prohibited Use.

Section 23.3. Restriction of Public Use. At Landlord's request, Tenant shall immediately cease to suffer or permit the Premises or any portion thereof to be used by the public in a manner that would, with the passage of time, impair title to the Premises or any portion thereof, or in a manner that would, with the passage of time, create the basis for a claim or claims of prescriptive right, adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof, but only to the extent and for so long as such cessation of use is necessary to prevent such impairment of title, creation of claim or implied dedication, as the case may be.

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AMENDED AND RESTATED

AGREEMENT OF LEASE

between

42ND ST. DEVELOPMENT PROJECT, INC.,
Landlord

and

FOUR TIMES SQUARE CENTER PARTNERS, L.P.,
Tenant

Premises

Block: 1013
Lots: 29, 37, 137, 36, 136, 135, 35 and 34
Borough of Manhattan
City, County and State of New York

Dated as of October 7, 1994

#40062305.2

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises throughout the Term only as a first-class office building, with restaurant, retail (as permitted in the Retail Guidelines), service, classroom, showroom, parking, back office, storage and other uses incidental thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the operation of a first class office building located in New York City.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and, subsequent to the delivery of Possession of any Parcel in the Premises to Tenant, neither permit nor suffer such Parcel to be used or occupied, for any retail use other than as permitted in Article 5, the Retail Guidelines or for any unlawful or illegal business, use or purpose or for any purpose or in any way in violation of the certificate(s) of occupancy therefor or for any use not permitted by Section 23.1 (any such use herewith referred to as a "Prohibited Use"). Promptly upon its discovery of any such Prohibited Use subsequent to delivery of Possession of the Premises, Tenant shall take or cause to be taken all necessary steps, legal and equitable, to compel the discontinuation of such Prohibited Use, including, if necessary, the removal from the Premises of any Subtenants using any portion of the Premises for a Prohibited Use.

Section 23.3. Restriction of Public Use. At Landlord's request, Tenant shall immediately cease to suffer or permit the Premises or any portion thereof to be used by the public in a manner that would, with the passage of time, impair title to the Premises or any portion thereof, or in a manner that would, with the passage of time, create the basis for a claim or claims of prescriptive right, adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof, but only to the extent and for so long as such cessation of use is necessary to prevent such impairment of title, creation of claim or implied dedication, as the case may be.

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NEW 42 – SITE 5 THEATERS

Funding Agreement

1. Funding Agreement among New York City Economic Development Corporation ("EDC"), 42nd St. Development Project, Inc. ("42DP"), The City of New York (the "City"), and The New 42nd Street, Inc. ("New 42"), dated as of 9/14/93.
2. Amendment to Funding Agreement dated 7/22/03.

Theater Development Agreement

3. Amended and Restated Theater Development Agreement between 42DP and New 42, dated as of 12/13/96.
4. Amendment to Amended and Restated Theater Development Agreement, dated as of 6/30/98.

Theater Project Agreement

5. Theater Project Agreement, between New York State Urban Development Corporation ("ESDC"), the City and New 42, dated as of 5/7/92.
6. Agreement extending Theater Project Agreement to Empire and New Amsterdam Theaters, dated 12/13/96
7. Second Amendment to Theater Project Agreement, dated as of 6/30/98

Master Lease

8. Amended and Restated Agreement of Master Lease, dated as of 12/13/96, between 42DP, as Landlord, and the New 42, as Tenant
9. Side Letter dated 6/4/98
10. Side Letter dated 6/16/98
11. Amendment to Amended and Restated Agreement of Master Lease, dated as of 6/30/98
12. Second Amendment Amended and Restated Agreement of Master Lease, dated as of 11/5/98
13. 12/13/96 Letter - Payment direction re: Harris Allocable Portion
14. Funding Agreement dated July 1, 2009 between EDC, 42DP, the City and New 42

Note: Agreements pertaining to the Harris and Liberty Theaters are included in the documents relating to the Site 8 Entertainment/Retail Project

expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 20

RIGHT OF INSPECTION

Section 20.01. Landlord's Right of Inspection. Tenant shall permit Landlord, its agents and representatives to enter the Premises at all reasonable times on reasonable notice for the purpose of inspecting the same.

Section 20.02. No Duty on Landlord. Nothing in this Article or elsewhere in this Lease shall imply any duty upon the part of Landlord to do any work which is the obligation of Tenant hereunder.

Section 20.03. Landlord's Entry Right 15 Months Prior to Expiration Date. Landlord shall have the right to enter the Premises at all reasonable times on reasonable notice during usual business hours within fifteen (15) months prior to the Expiration Date, for the purposes of showing the same to prospective tenants or purchasers.

ARTICLE 21

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 21.01. Permitted Uses.

(a) Tenant shall use and operate the Premises only for the following purposes, in accordance with the certificate(s) of occupancy therefor, and for no other purpose inconsistent therewith:

(i) live theater (such as: drama, musicals, dance, chamber music, classical, light or contemporary opera, dinner theater, children's theater and other live performance arts); motion picture theater, provided that no more than two motion picture theaters may be located on Site 5; recital halls, concert halls, cabarets, jazz and other contemporary music as well as comedy clubs; state-of-the-art media shows; tourist or educationally oriented multi-media events; art, scientific and educational exhibitions; interactive theme exhibitions; museums; recording studios; rehearsal and performance studios; and repertory schools (such uses, "*Primary Uses*");

(ii) restaurants and retail activities (as per list of Entertainment-Related Retail activities (annexed hereto as Attachment A to Exhibit H), or as otherwise approved by Landlord, if, in Landlord's reasonable judgment, such proposed use,

when considered with the overall mix of uses, does not materially adversely affect the overall requirement of entertainment-related uses) (such uses, "***Secondary Uses***"); and

(iii) theater-related craft shops (e.g., wig and costume makers) and theater-related office space (such uses, "***Ancillary Uses***").

(b) At all times after Substantial Completion of the Initial Construction Work for all the Theaters, not less than five Theaters shall either (i) be principally devoted to Primary Uses, (ii) be part of an Entertainment Complex or (iii) be both principally devoted to Primary Uses and part of an Entertainment Complex. Secondary Uses may predominantly occupy (A) the Empire Theater (described in clause (vii) of the definition of "Theater" in Article 1 hereof), the Liberty Theater (described in clause (ii) of the definition of "Theater" in Article 1 hereof), the Selwyn Infill and up to one (1) additional Theater and (B) spaces above the theater auditoriums and/or in the lobbies (but in the case of lobbies, only to the extent that the Secondary Uses occupying any lobby are related to the Primary and/or Secondary Uses conducted in such Theater) in any of the remaining Theaters. Ancillary Uses may occupy space above the theater auditoriums and may also occupy the Selwyn Infill. Notwithstanding the foregoing, a modification of the allocation of uses permitted under this Section 21.01(b) may be allowed by Landlord if, in Landlord's discretion, the uses as reallocated remain consistent with the Public Goals and are predominantly entertainment-related.

(c) At all times after Substantial Completion of the Initial Construction Work for five (5) Theaters, at least one (1) of the Theaters must be predominantly dedicated to not-for-profit uses; at all times after Substantial Completion of the Initial Construction Work for six (6) Theaters, at least two (2) of the Theaters must be predominantly dedicated to not-for-profit uses. For purposes of this Section 21.01(c), a Theater shall be deemed to be predominantly dedicated to not for profit uses if a significant portion of such Theater is dedicated to not for profit use, and such use constitutes the significant presence in such Theater.

Section 21.02. Prohibited Uses. Tenant shall not use or occupy, nor permit or suffer the Premises, or any part thereof, to be used or occupied for any unlawful or illegal business, use or purpose, or for any business, use or purpose deemed by Landlord to be extra hazardous, or in such manner as to constitute a nuisance of any kind, public or private, or for any purpose or in any way in violation of any certificate of occupancy or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations, or which may make void or voidable any insurance then in force on the Premises. Tenant shall immediately upon the discovery of any such unlawful, illegal or extra hazardous use or nuisance take all necessary steps, legal and equitable, to cause the discontinuance of such use and to oust and remove any subtenants, licensees, concessionaires or other occupants found guilty of such unlawful, illegal or extra hazardous use or nuisance.

Section 21.03. Restriction of Public Use. Tenant shall not suffer or permit the Premises or any portion thereof to be used by the public without restriction or in such

manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 22

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 22.01. Definition. Each of the following events shall be an "**Event of Default**" hereunder:

(a) if Tenant shall fail to pay when due any installment of Base Rent or Additional Rent or any part thereof, and such default shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to make any other payment of Rental required to be paid by Tenant hereunder for a period of thirty (30) days after written notice thereof from Landlord to Tenant;

(c) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements of this Lease and such failure shall continue for a period of sixty (60) days after written notice thereof by Landlord to Tenant specifying such failure, unless (i) such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such sixty (60) day period, in which case no default shall be deemed to exist as long as Tenant shall have commenced curing the same within such sixty (60) day period and shall thereafter diligently and continuously prosecute the same to completion or (ii) such failure requires work to be performed, acts to be done, or conditions to be removed which arise as a consequence of any failure by a Subtenant to perform its obligations under its Sublease, then such sixty (60) day period shall be extended if and for so long as Tenant is diligently pursuing its remedies against such Subtenant;

(d) if Tenant shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute of law, or if Tenant shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any substantial part of its properties or of the Premises or any interest of Tenant therein or if Tenant shall admit in writing the inability to pay its debts as they become due or makes a general assignment for the benefit of its creditors; provided, however, that, if this Lease shall be assigned with the consent of

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PHASE II FUNDING AGREEMENT

BETWEEN

42ND ST. DEVELOPMENT PROJECT, INC.,
as Trustee of the 1994 42nd Street Port Authority Project Area Trust
and the 1994 42nd Street EDC Trust,

and

NEW AMSTERDAM DEVELOPMENT CORPORATION

Dated: as of December 29, 1994

Premises:

New Amsterdam Theater
214 West 42nd Street
New York, New York

ARTICLE 6

Renovation, Alteration, Use, Operation and Repair of the Property

Section 6.01. Permitted Use. (a) The Theater and the Roof-Top Theater shall be used and occupied only for first-class Broadway live theater (including performance of drama, musicals, dance, chamber music, classical, light or contemporary opera, dinner theater, children's theater and other live performance arts), motion picture theater, recital halls, concert halls, cabarets, jazz and other contemporary music as well as comedy clubs, state-of-the-art media shows, tourist or educationally oriented multi-media events, art, scientific and educational exhibitions, interactive theme exhibitions, museums, recording studios, rehearsal and performance studios, repertory schools and for any other purpose consistent therewith or any uses incidental or related thereto, and for no other purpose, and the remainder of the Property shall be used for any of the foregoing permitted uses, for uses ancillary thereto, and for any of the uses listed in Exhibit I attached hereto, and for no other purpose (any of the foregoing, a "***Permitted Use***"). Tenant agrees at a minimum to use and operate the Theater (or cause the Theater to be used and operated) for a Permitted Use at least seven hundred fifty (750) nights during each five (5) year period commencing upon the Substantial Completion Date. Tenant agrees not to use or permit the Property to be used for any purposes other than a Permitted Use without the prior written consent of Landlord.

(b) All business and other operations conducted at the Property shall be conducted in compliance with all Legal Requirements and Insurance Requirements. Tenant shall secure and maintain all licenses and permits required by Legal Requirements for the actual operation of the Property for the particular Permitted Use to which the Property is being put, except for licenses and permits that relate exclusively to Landlord Replacement Items. The Public Entities shall use their best efforts to assist Tenant in obtaining the temporary and permanent certificates of occupancy for the initial actual operation of the Theater as a first-class Broadway live theater following substantial completion of the Renovation Work.

(c) All signage to be incorporated into the design of the Property and all lighting to be installed in connection therewith shall be consistent with the specific requirements set forth in the Design Guidelines and, if and to the extent required by Legal Requirements, will conform with the applicable restrictions established and maintained by the Landmarks Preservation Commission. In the event Tenant does not install signage on the roof of the Annex as contemplated in the Design Guidelines within twelve (12) months after the Substantial Completion Date (the "***Signage Completion Date***"), Landlord shall be entitled to install such signage, at Landlord's expense, if Tenant does not do so within thirty (30) days after notice by Landlord given at any time after the Signage Completion Date, and

Tenant shall cooperate with, and grant access to, Landlord for purposes of implementing the foregoing.

(d) Tenant shall designate and use the 42nd Street entrance to the Improvements as the main entrance for pedestrian ingress and egress.

Section 6.02. Restrictions on Use. Tenant shall not use, occupy, maintain or operate the Property, nor permit the same to be used, occupied, maintained or operated, nor do or permit anything to be done in, on or to the Property, in whole or in part, in a manner which would in any way (a) violate any construction permit or certificate of occupancy affecting the Property, (b) make it impossible or economically unfeasible to obtain fire or other insurance thereon required to be furnished by Tenant hereunder, (c) cause physical damage (other than de minimis damage resulting from the ordinary use of the Property for the uses set forth herein) to the Property or the Improvements or any part thereof, (d) constitute a public or private nuisance, (e) violate any Legal Requirement or Insurance Requirement then in effect, (f) constitute an Event of Default by Tenant, under any term, covenant or condition of this Lease, or (g) violate the Design Guidelines. Any act or omission of any subtenant which violates any provision of this Lease shall, for the purposes hereof, be deemed to be a violation of such provision of this Lease by Tenant, it being the intention and agreement of the parties that Tenant shall assume and be liable to Landlord for any and all acts and omissions of any and all subtenants with respect to this Lease. Tenant shall promptly upon discovery of any of the conditions in clauses (a) through (g) above, take all necessary steps, legal and equitable, to cause the discontinuance of such condition.

Section 6.03. Tenant's Obligations; Maintenance; Repairs. (a) Tenant shall (i) maintain and take good care of the Property (including all Personal Property, building systems, escalators, elevators, signage and lighting and the like), provided that this clause (i) shall be deemed to impose on Tenant a general maintenance obligation and not a repair, replacement or restoration obligation, which repair, replacement and restoration obligations have otherwise been allocated between Landlord and Tenant in accordance with the provisions of this Lease, (ii) make all nonstructural repairs which are caused by or arise out of ordinary wear and tear, and (iii) make all repairs, restorations and replacements, ordinary or extraordinary, foreseen and unforeseen, structural and non-structural, which:

(1) are caused by or arise out of the negligent act or omission of Tenant or any employee, agent, contractor or invitee of Tenant or any person claiming by, through or under any of the foregoing;

(2) are required by or arise out of changes in Legal Requirements and/or Insurance Requirements and the cost of which does not in the aggregate during any

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Sites 6W, 8E and 10: Schedule G
Use and Operating Requirements

1. **Definitions**

Gross Leasable Area: All space not including mechanical spaces and shafts, fire egress stairs and corridors, loading and service areas and exterior walls.

Incidental Use: Each use which is clearly ancillary to and either related to or customarily found in connection with a Permitted Entertainment Use or a Permitted Non-Entertainment Use, as the case may be.

Permitted Entertainment Use: Each use set forth on Exhibit 1.

Permitted Non-Entertainment Use: Each use set forth on Exhibit 2.

2. **Uses**

For the first ten (10) years after Full Operating Condition is achieved, at least sixty (60) percent of the Gross Leasable Area of the Project shall be occupied for uses consistent with one or more of the Permitted Entertainment Uses. From the tenth (10th) anniversary of the achievement of Full Operating Condition up to the twentieth (20th) anniversary of the achievement of Full Operating Condition, at least fifty (50) percent of the Gross Leasable Area of the Project shall be occupied for uses consistent with one or more of the Permitted Entertainment Uses. The balance of the Gross Leasable Area of the Project may be occupied for uses consistent with one or more of the Permitted Non-Entertainment Uses. Incidental Uses, as well as square footage devoted to "back of the house" or other support activities integral to the operation of the use to which it relates, shall be considered part of such use for purposes of the foregoing calculation.

After the twentieth (20th) anniversary of the achievement of Full Operating Condition, all uses permitted in this area by the New York City Zoning Resolution shall be permitted in the Project.

3. **Hours of Operation**

At lease fifty (50) percent of the Gross Leasable Area of the Project shall remain open for business until 1:00 a.m. on Thursdays, Fridays and Saturdays and until 11:00 p.m. on other days throughout the term of the lease.

4. **Anchor Subtenants**

For the first twenty (20) years after the Project achieves Full Operating Condition, no less than two (2) subtenants shall at all times be Anchor Subtenants.

5. **Minimum Number of Demised Spaces**

There shall be a minimum number of five (5) separately demised spaces within the Project for the first twenty years after achievement of Full Operating Condition.

6. **Alternative Proposal**

Tenant may submit alternative proposals for the Use and Operating requirements and the Landlord in its sole discretion may alter the requirements if the alternative proposal provides an equivalent mix and level of activity as the requirements herein.

EXHIBIT 1

Live theater (such as drama, musicals, dance, chamber music, classical, light or contemporary opera, dinner theater, children's theater and other live performance arts)

bowling alleys[1]
concert halls
cabarets
jazz and other contemporary music clubs
comedy clubs
state-of-the-art media shows
interactive amusement centers
eating or drinking establishments where entertainment is the predominant activity
tourist or educationally oriented multi-medial events
art, scientific and educational exhibitions
interactive theme exhibitions
museums
motion picture production shows
movie theaters
recording studios
rehearsal studios
performance studios

[1]Permitted only if design and theme are tourist or entertainment related.

EXHIBIT 2

All Uses in Exhibit 1
Art Galleries
Art, Needlework[1]
Artist Supply Stores[1]
Athletic Good Stores
Bakeries
Book Stores or Card Stores
Candy Stores[1]
Catering Establishments[1]
Cigar Stores[1]
Clothing Stores
Coin Stores[1]
Costume Rental Establishment[1]
Dance Halls, Public
Delicatessens
Dressmaking Shops, Custom[1]
Drug Stores[1]
Eating and Drinking Establishments
Florists[1]
Gift Shops (including tourist/entertainment super stores)
Ice Cream Stores[1]
Jewelry Shops[1]
Leather Goods or Luggage Stores[1]
Music Stores
Photographic Studios[1]
Pool or Billiard Halls
Record Stores
Shoe Stores[1]
Skating Rinks, indoor[1]
Stamp Stores[1]
Stationery Stores[1]
Ticket Sales[1]
Tobacco Stores[1]
Tour Operator[1]
Travel Bureau[1]
Variety Stores

[1]No more than twenty-five (25) feet of frontage per Store on 42nd Street is permitted with a total maximum of up to one hundred (100) feet of frontage. If such use has an entertainment theme in its design, the frontage restriction shall not apply.

#81

Draft dated December 30, 1994

SITE 8 EAST ACQUISITION AGREEMENT

among

THE CITY OF NEW YORK,

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION,

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

and

42ND ST. DEVELOPMENT PROJECT, INC.

Premises

Block: 1013
Lots: 12, 53, 55 and 57

dated

as of _____ ___, 199__

#40067870.6

ARTICLE 7

USE OF THE PROPERTY

Section 7.01. Permitted Use.

(a) **Use.** The Project and each Component or portion thereof shall only be used, occupied and operated in accordance with the requirements of DUO and for the uses, and the required mix of such uses, expressly set forth in Schedule G attached hereto (the "***Permitted Use***") and for no other purpose. Tenant agrees not to use, permit or suffer the Project to be used for any purposes not expressly permitted under this Section 7.01(a) without the prior written consent of Landlord.

(b) **Display and Signage.** All signage to be incorporated into the design of the Project, and all lighting to be installed in connection therewith, shall comply with the specific requirements of DUO set forth in Schedule F attached hereto. Tenant shall install and operate, or cause to be installed and operated, lights and signs by the date(s) prescribed in the Display and Signage Requirements of DUO (Schedule F attached hereto) applicable to each category of lighting and signage set forth in such Schedule F.

(c) **Access.** Tenant shall designate 42nd Street as the main entrance to the Project for pedestrian ingress and egress for the Project and shall cause each Subtenant to use 42nd Street as the main entrance to its Demised Space for pedestrian ingress and egress.

(d) **[Intentionally Omitted].**

(e) **Full Operating Condition.**

(f) **Achieving Full Operating Condition.** Tenant shall achieve Full Operating Condition as soon as possible, but in any event by the following dates:

(A) Retail/Entertainment Component. Subject to the provisions of this Section 7.01(e)(i)(A), the Retail/Entertainment Component shall achieve Full Retail/Entertainment Operating Condition by the date that is not more than three (3) months after the date that Tenant's Construction Work shall have been Substantially Completed, as the same may be extended by reason of Unavoidable Delay in the performance of Initial Installation Work (the "***Required Retail/Entertainment Operation Date***"). TIME IS OF THE ESSENCE as to the Required Retail/Entertainment Operation Date; provided, however, upon notice to Landlord by Tenant accompanied by an Architect's Extension Certificate, the Required Retail/Entertainment Operation Date shall be extended for each Subtenant of the Retail/Entertainment Component whose Demised Public Space is not open for business to the general public in compliance with DUO solely on account of the failure to complete the tenant improvement work required to so

SCHEDULE G

Use And Operating Requirements

1. **Definitions**

Gross Leasable Area: All space not including mechanical spaces and shafts, fire egress stairs and corridors, loading and service areas and exterior walls.

Incidental Use: Each use which is clearly ancillary to and either related to or customarily found in connection with a Permitted Entertainment Use or a Permitted Non-Entertainment Use, as the case may be.

Permitted Entertainment Use: Each use set forth on Exhibit 1.

Permitted Non-Entertainment Use: Each use set forth on Exhibit 2.

2. **Uses**

For the first ten (10) years after Full Operating Condition is achieved, at least sixty (60) percent of the Gross Leasable Area of the Project shall be occupied for uses consistent with one or more of the Permitted Entertainment Uses. From the tenth (10th) anniversary of the achievement of Full Operating Condition up to the twentieth (20th) anniversary of the achievement of Full Operating Condition, at least fifty (50) percent of the Gross Leasable Area of the Project shall be occupied for uses consistent with one or more of the Permitted Entertainment Uses. The balance of the Gross Leasable Area of the Project may be occupied for uses consistent with one or more of the Permitted Non-Entertainment Uses. Incidental Uses, as well as square footage devoted to "back of the house" or other support activities integral to the operation of the use to which it relates, shall be considered part of such use for purposes of the foregoing calculation.

After the twentieth (20th) anniversary of the achievement of Full Operating Condition, all uses permitted in this area by the New York City Zoning Resolution shall be permitted in the Project.

3. **Hours of Operation**

At lease fifty (50) percent of the Gross Leasable Area of the Project shall remain open for business until 1:00 a.m. on Thursdays, Fridays and Saturdays and until 11:00 p.m. on other days throughout the term of the lease.

4. **Anchor Subtenants**

For the first twenty (20) years after the Project achieves Full Operating Condition, no less than two (2) subtenants shall at all times be Anchor Subtenants.

5. **Minimum Number of Demised Spaces**

There shall be a minimum number of five (5) separately demised spaces within the Project for the first twenty years after achievement of Full Operating Condition.

6. **Alternative Proposal**

Tenant may submit alternative proposals for the Use and Operating requirements and the Landlord in its sole discretion may alter the requirements if the alternative proposal provides an equivalent mix and level of activity as the requirements herein.

ARTICLE VII
USE AND MAINTENANCE OF THE PROPERTY

Section 7.1 Permitted Use.

(a) Use. The Project and each Project Component or portion thereof shall be used, maintained, occupied and operated (i) in accordance with the requirements of the DUO, (ii) at a standard of at least that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan, and (iii) subject to the DUO and except as set forth in **Sections 7.1(c)** and 7.2 hereof, for any use permitted by Legal Requirements, including, without limitation, newsrooms, retail, service, auditoriums, dining facilities, communications facilities, production facilities, ancillary medical facilities, parking for not more than ten (10) cars, back office, storage and other uses as are incidental or ancillary thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the DUO or the operation of a Class "A" office building (as understood on the date hereof) in midtown Manhattan (the uses described in clauses (i), (ii) and (iii) above, the "**Permitted Use**"), and for no other use. Tenant agrees not to use, permit or suffer the Project to be used for any purposes not expressly permitted under this **Section 7.1(a)** without the prior written consent of Landlord.

(b) Display and Signage. All signage to be incorporated into the design of the Project, and all lighting to be installed in connection therewith, shall comply with the specific requirements of the DUO. Tenant shall install and operate, or cause to be installed and operated, lights and signs as required by the DUO by the date(s) prescribed in the DUO applicable to each category of lighting and signage set forth in the DUO.

(c) Common Elements. Subject to the immediately following sentence, the Common Elements (as defined in the Severance Subleases) shall not be used for any commercial purposes. The Common Element Leaseable Space may be used for commercial purposes but only in accordance with, and as contemplated by, **Section 34.1** hereof.

(d) Compliance with the DUO. From and after the Substantial Completion Date, Tenant shall maintain and operate the Project in compliance with the DUO.

Section 7.2 Restrictions on Use. Tenant shall not use, occupy, maintain or operate the Project, nor permit the same to be used, occupied, maintained or operated, nor do or permit anything to be done in, on or to the Project, in whole or in part, in a manner which would in any way:

(a) violate any construction permit or certificate of occupancy affecting the Property;

(b) constitute a public nuisance;

(c) violate any Legal Requirements or Insurance Requirements; or

(d) violate any requirements of the DUO.

Section 7.3 Interim and Long-Term Maintenance Obligations.

(a) Interim Maintenance Obligations. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such Existing Improvements are required by a Governmental Authority to be modified), at all times from the Delivery Date to the date Tenant commences the Demolition Work, Tenant shall:

(A) not cause any waste, damage, disfigurement or injury to or upon the Property or any part thereof, except damage, disfigurement or injury that is incidental to pre-construction activities permitted hereunder (and subject to repair of any such damage, disfigurement or injury required hereunder);

(B) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(C) not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(D) keep each building on the Property locked and secure;

(E) ensure that the exterior of the Property is well lit from dusk until dawn every day;

(F) ensure that alcoves, entrances, or other breaks in the streetwall are well lit;

(G) not cinder-block, cover, remove, block or seal in any manner any window on any façade of the Existing Improvements that is visible from the street; and

(H) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(b) Maintenance During Demolition Work and Tenant's Construction Work. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such improvement is required to be made by the express directive of a Governmental Authority

acting in its governmental capacity), at all times from the date Tenant commences the Demolition Work through the Substantial Completion Date, Tenant shall:

(A) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(B) except to the extent permitted under applicable Legal Requirements and all permits and authorizations required thereunder, not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(C) to the extent any Existing Improvement has not been demolished, keep such Existing Improvement locked and secure;

(D) to the extent any Existing Improvement has not been demolished, ensure that the exterior of such Existing Improvement is well lit from dusk until dawn every day;

(E) keep the Property free of graffiti and posters; and

(F) comply with the DUO.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(c) Long-Term Maintenance Obligations. (i) At all times during the term of this Lease from and after the Substantial Completion Date, Tenant shall (and/or shall cause each Subtenant (by incorporating the following provisions in every Sublease and using all reasonable efforts to enforce the same) to):

(A) not cause any waste to or upon the Property or any part thereof, nor permit or suffer any waste to or upon the Property;

(B) not cause physical damage (other than as part of any Construction Work permitted hereunder or as caused by a Casualty or Taking) to the Property or any part thereof, including the Core and Shell and Tenant's Subway Improvements (except in accordance with the Site 8 South Subway Agreement);

(C) take good care of the Property, make all repairs, restorations and replacements thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, necessary to (1) comply with all Legal Requirements, Insurance Requirements and the DUO and (2) maintain and operate the Property to a standard at least of that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan;

(D) maintain, repair, keep, use and occupy the Property in compliance with the DUO;

(E) maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear from rubbish, dirt, ice and snow and shall not impede the use of or obstruct the same or allow the same to be so impeded or obstructed in any manner;

(F) maintain and keep the sidewalks and vaults adjacent to the Property in good order, repair and condition (including the prompt repair of cracks therein and the maintenance of an even level thereof) and at all times keep the same in compliance with the DUO and Legal Requirements;

(G) operate the Retail Space for the conduct of business during the hours of operation set forth in the DUO;

(H) operate and maintain the Public Amenity as set forth in the DUO and in **Section 30.4** hereof;

(I) prohibit sales through window openings on the streetwall, except in the case of (1) a Subtenant whose business is primarily the operation of a newsstand or ticket sales or (2) the sale of tickets for movies and other attractions, i.e., display windows shall be used for display only and not as a point of sale; and

(J) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

Section 7.4 **Compliance with Legal Requirements.** Tenant shall promptly comply with all Legal Requirements and Insurance Requirements, foreseen or unforeseen, ordinary as well as extraordinary, structural or non-structural. Tenant shall have the right to contest the validity of any Legal Requirement or the application thereof in accordance with this **Section 7.4**. During such contest, compliance with any such contested Legal Requirement may be deferred by Tenant upon condition that before instituting any such proceedings, Tenant shall furnish to Landlord

security reasonably satisfactory to Landlord (it being agreed that an acceptable guaranty of an Acceptable Guarantor shall be security reasonably satisfactory to Landlord under this **Section 7.4**), securing compliance with the contested Legal Requirement and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably possible after the issuance of any notification by the applicable governmental authority with respect to required compliance with such Legal Requirement and shall be prosecuted to final adjudication with reasonable diligence. Tenant hereby agrees to indemnify Landlord from and against any and all Claims arising out of such proceeding. Notwithstanding the foregoing, Tenant promptly shall comply with any such Legal Requirement and compliance shall not be deferred if at any time there is a condition imminently hazardous to human life or health, the Property, or any part thereof, shall be in danger of being forfeited or lost, or if Landlord shall be in danger of being subject to criminal and/or civil liability or penalty (other than a fine which Tenant agrees to pay or in regard to which Tenant provides to Landlord an indemnity of Landlord by an Acceptable Guarantor) by reason of noncompliance therewith. The Obligations of Tenant to indemnify Landlord under this **Section 7.4** shall survive the expiration or earlier termination of this Lease.

Section 7.5 **No Waste**. Except in connection with the Demolition Work, Tenant will not do, permit or suffer any waste to or upon the Property or any part thereof. Tenant shall have the right at any time and from time to time to sell or dispose of any Equipment, subject to this Lease, which may have become obsolete or unfit for use or which is no longer useful, necessary or economical in the operation of the Property; provided, however, that Tenant shall have substituted or shall promptly substitute for the property so removed from the Property other Equipment not necessarily of the same character but at least of equal quality in the performance of the particular function in question as that of the property so removed unless, in Tenant's reasonable opinion as set forth in a written notice to Landlord, the property so removed was performing an obsolete function or a function no longer required in connection with the then current use of the Property and replacement thereof is not necessary or appropriate to maintain, without impairment, the operation or character of the Property, its use and occupancy by Subtenants or its overall value.

Section 7.6 **Right of Entry**. Landlord (and its designee(s)) shall have the right to enter upon the Property, or any part thereof, at any time during the term hereof, for the purpose of ascertaining the condition of the Property or whether Tenant or any Subtenant is observing and performing their respective obligations hereunder, all without hindrance or molestation from Tenant or any Person claiming by, through or under Tenant. The above mentioned rights of entry shall be exercisable (other than in the case of an emergency) at reasonable times, at reasonable hours and on reasonable, prior written notice, and Landlord shall use reasonable efforts to minimize interference with Tenant and any Subtenants, and shall exercise such right under the supervision of Tenant's (and any such Subtenant's) employees, agents or designees provided the same are made reasonably available to Landlord for such purpose upon reasonable advance notice to Tenant and any such Subtenant (as applicable).

Section 7.7 **Utilities; Services; No Landlord Responsibility**. Tenant shall be responsible for all charges for gas, electricity, light, heat, water, sewerage and power, for protective and security services, for telephone and other communication services, and for all other public or private utility services which shall be used, rendered or supplied upon or in connection with the Property, or any part thereof, at any time during the term of this Lease. Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Property, nor shall Landlord have any duty or obligation to make any Alteration or repair to the Property. Tenant assumes the full

and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Property.

Section 7.8 **Environmental**. Tenant shall not undertake, permit or suffer any Environmental Activity at the Property other than (a) in compliance with all applicable Insurance Requirements and Legal Requirements and (b) in such a manner as shall keep the Property free from any lien imposed in respect or as a consequence of such Environmental Activity. Tenant shall take all necessary steps to ensure that any permitted Environmental Activity undertaken or permitted at the Property is undertaken in a manner as to provide prudent safeguards against potential risks to human health or the environment or to the Property. Tenant shall notify Landlord within twenty-four (24) hours after Tenant becomes aware of the release or discharge of any Hazardous Materials from or at the Property and Tenant shall forthwith remediate or remove such Hazardous Materials, subject to the last sentence of this **Section 7.8**. Landlord shall have the right from time to time to conduct an environmental audit of the Property, provided Landlord has reasonable cause to believe (i) Hazardous Materials have been released or discharged or is otherwise present at the Property or (ii) Tenant is otherwise in violation of any Legal Requirement or Insurance Requirement relating to Hazardous Materials, and Landlord provides written notice of its intention to conduct an environmental audit together with a statement setting forth the reasons therefor. Tenant shall cooperate in the conduct of such environmental audit. The cost of such audit shall be payable by Tenant upon Landlord's demand therefor; provided, however, that if Tenant objects to such audit by written notice received by Landlord prior to the initiation of such audit and such audit (and any more-detailed environmental audit of the same circumstances (e.g., a so-called phase II environmental assessment)) fails to identify any Environmental Activity in violation of Legal Requirements, Landlord shall pay the costs of such audit. Such audit shall be performed at reasonable times, at reasonable hours and on at least five (5) Business Days notice (except in the case of an emergency), Landlord shall make reasonable efforts to minimize interference with Tenant and any Subtenants, and shall require its audit contractor to carry commercial liability insurance in a commercially reasonable amount, naming Tenant and Landlord as additional insureds, and to deliver Tenant evidence thereof no less than five (5) Business Days prior to commencing such audit. Notwithstanding anything to the contrary in the foregoing portions of this **Section 7.8**: (A) nothing contained in this **Section 7.8** shall require Tenant to remove or remediate any Hazardous Waste unless required to do so by Legal Requirements; and (B) Tenant shall have the right, in accordance with **Section 7.4**, to contest the validity of any Legal Requirement applicable to the remediation or removal of Hazardous Materials, provided Tenant forthwith takes all necessary steps to prevent any further discharge or release of Hazardous Materials or any other or further deterioration to the Property caused by Hazardous Materials; provided, however, that, in any event, Tenant may not delay such remediation or removal during the pendency of such contest if the presence of such Hazardous Materials poses an imminent threat to the Property or any persons or if such delay could expose Landlord to increased liability arising from such Hazardous Materials.

Section 7.9 **Equitable Relief**. Tenant hereby acknowledges that Landlord may suffer irreparable harm by reason of a breach or threatened breach of the provisions of this **Article VII**, and, accordingly, in addition to any other remedy that Landlord may have under this Lease or as may be permitted by applicable law, Landlord shall be entitled to seek to enjoin the action, activity or inaction that gives rise to such breach or threatened breach by Tenant.

Section 7.10 **Windows**. Tenant shall not clean or require, permit, suffer or allow any window in the Improvements to be cleaned from the outside in violation of Section 202 of the Labor Law or any other Legal Requirements or Insurance Requirements.

Section 7.11 Adverse Possession. Tenant shall not suffer or permit the Property or any portion thereof to be used by the public or any Person without restriction or in such manner as would, with the lapse of time, impair title to the Property or any portion thereof, or create the basis for a legitimate claim or claims of adverse usage or adverse possession by the public, as such, or any Person, or of implied dedication of the Property, or any portion thereof.

Section 7.12 Pre-Possession Obligations. Except as expressly set forth hereunder or in a separate agreement between ESDC and Tenant, Tenant shall have no rights, obligations or liability in respect of the Property prior to the delivery of Possession.

ARTICLE VII
USE AND MAINTENANCE OF THE PROPERTY

Section 7.1 **Permitted Use**.

(a) Use. The Project and each Project Component or portion thereof shall be used, maintained, occupied and operated (i) in accordance with the requirements of the DUO, (ii) at a standard of at least that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan, and (iii) subject to the DUO and except as set forth in **Sections 7.1(c)** and **7.2** hereof, for any use permitted by Legal Requirements, including, without limitation, newsrooms, retail, service, auditoriums, dining facilities, communications facilities, production facilities, ancillary medical facilities, parking for not more than ten (10) cars, back office, storage and other uses as are incidental or ancillary thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the DUO or the operation of a Class "A" office building (as understood on the date hereof) in midtown Manhattan (the uses described in clauses (i), (ii) and (iii) above, the "**Permitted Use**"), and for no other use. Tenant agrees not to use, permit or suffer the Project to be used for any purposes not expressly permitted under this **Section 7.1(a)** without the prior written consent of Landlord.

(b) Display and Signage. All signage to be incorporated into the design of the Project, and all lighting to be installed in connection therewith, shall comply with the specific requirements of the DUO. Tenant shall install and operate, or cause to be installed and operated, lights and signs as required by the DUO by the date(s) prescribed in the DUO applicable to each category of lighting and signage set forth in the DUO.

(c) Common Elements. Subject to the immediately following sentence, the Common Elements (as defined in the Severance Subleases) shall not be used for any commercial purposes. The Common Element Leaseable Space may be used for commercial purposes but only in accordance with, and as contemplated by, **Section 34.1** hereof.

(d) Compliance with the DUO. From and after the Substantial Completion Date, Tenant shall maintain and operate the Project in compliance with the DUO.

Section 7.2 **Restrictions on Use**. Tenant shall not use, occupy, maintain or operate the Project, nor permit the same to be used, occupied, maintained or operated, nor do or permit anything to be done in, on or to the Project, in whole or in part, in a manner which would in any way:

(a) violate any construction permit or certificate of occupancy affecting the Property;

(b) constitute a public nuisance;

(c) violate any Legal Requirements or Insurance Requirements; or

(d) violate any requirements of the DUO.

Section 7.3 **Interim and Long-Term Maintenance Obligations**.

(a) Interim Maintenance Obligations. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such Existing Improvements are required by a Governmental Authority to be modified), at all times from the Delivery Date to the date Tenant commences the Demolition Work, Tenant shall:

(A) not cause any waste, damage, disfigurement or injury to or upon the Property or any part thereof, except damage, disfigurement or injury that is incidental to pre-construction activities permitted hereunder (and subject to repair of any such damage, disfigurement or injury required hereunder);

(B) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(C) not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(D) keep each building on the Property locked and secure;

(E) ensure that the exterior of the Property is well lit from dusk until dawn every day;

(F) ensure that alcoves, entrances, or other breaks in the streetwall are well lit;

(G) not cinder-block, cover, remove, block or seal in any manner any window on any façade of the Existing Improvements that is visible from the street; and

(H) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(b) Maintenance During Demolition Work and Tenant's Construction Work. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such improvement is required to be made by the express directive of a Governmental Authority

acting in its governmental capacity), at all times from the date Tenant commences the Demolition Work through the Substantial Completion Date, Tenant shall:

(A) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(B) except to the extent permitted under applicable Legal Requirements and all permits and authorizations required thereunder, not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(C) to the extent any Existing Improvement has not been demolished, keep such Existing Improvement locked and secure;

(D) to the extent any Existing Improvement has not been demolished, ensure that the exterior of such Existing Improvement is well lit from dusk until dawn every day;

(E) keep the Property free of graffiti and posters; and

(F) comply with the DUO.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(c) Long-Term Maintenance Obligations. (i) At all times during the term of this Lease from and after the Substantial Completion Date, Tenant shall (and/or shall cause each Subtenant (by incorporating the following provisions in every Sublease and using all reasonable efforts to enforce the same) to):

(A) not cause any waste to or upon the Property or any part thereof, nor permit or suffer any waste to or upon the Property;

(B) not cause physical damage (other than as part of any Construction Work permitted hereunder or as caused by a Casualty or Taking) to the Property or any part thereof, including the Core and Shell and Tenant's Subway Improvements (except in accordance with the Site 8 South Subway Agreement);

(C) take good care of the Property, make all repairs, restorations and replacements thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, necessary to (1) comply with all Legal Requirements, Insurance Requirements and the DUO and (2) maintain and operate the Property to a standard at least of that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan;

(D) maintain, repair, keep, use and occupy the Property in compliance with the DUO;

(E) maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear from rubbish, dirt, ice and snow and shall not impede the use of or obstruct the same or allow the same to be so impeded or obstructed in any manner;

(F) maintain and keep the sidewalks and vaults adjacent to the Property in good order, repair and condition (including the prompt repair of cracks therein and the maintenance of an even level thereof) and at all times keep the same in compliance with the DUO and Legal Requirements;

(G) operate the Retail Space for the conduct of business during the hours of operation set forth in the DUO;

(H) operate and maintain the Public Amenity as set forth in the DUO and in **Section 30.4** hereof;

(I) prohibit sales through window openings on the streetwall, except in the case of (1) a Subtenant whose business is primarily the operation of a newsstand or ticket sales or (2) the sale of tickets for movies and other attractions, i.e., display windows shall be used for display only and not as a point of sale; and

(J) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

Section 7.4 **Compliance with Legal Requirements.** Tenant shall promptly comply with all Legal Requirements and Insurance Requirements, foreseen or unforeseen, ordinary as well as extraordinary, structural or non-structural. Tenant shall have the right to contest the validity of any Legal Requirement or the application thereof in accordance with this **Section 7.4**. During such contest, compliance with any such contested Legal Requirement may be deferred by Tenant upon condition that before instituting any such proceedings, Tenant shall furnish to Landlord

security reasonably satisfactory to Landlord (it being agreed that an acceptable guaranty of an Acceptable Guarantor shall be security reasonably satisfactory to Landlord under this **Section 7.4**), securing compliance with the contested Legal Requirement and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably possible after the issuance of any notification by the applicable governmental authority with respect to required compliance with such Legal Requirement and shall be prosecuted to final adjudication with reasonable diligence. Tenant hereby agrees to indemnify Landlord from and against any and all Claims arising out of such proceeding. Notwithstanding the foregoing, Tenant promptly shall comply with any such Legal Requirement and compliance shall not be deferred if at any time there is a condition imminently hazardous to human life or health, the Property, or any part thereof, shall be in danger of being forfeited or lost, or if Landlord shall be in danger of being subject to criminal and/or civil liability or penalty (other than a fine which Tenant agrees to pay or in regard to which Tenant provides to Landlord an indemnity of Landlord by an Acceptable Guarantor) by reason of noncompliance therewith. The Obligations of Tenant to indemnify Landlord under this **Section 7.4** shall survive the expiration or earlier termination of this Lease.

Section 7.5 **No Waste**. Except in connection with the Demolition Work, Tenant will not do, permit or suffer any waste to or upon the Property or any part thereof. Tenant shall have the right at any time and from time to time to sell or dispose of any Equipment, subject to this Lease, which may have become obsolete or unfit for use or which is no longer useful, necessary or economical in the operation of the Property; provided, however, that Tenant shall have substituted or shall promptly substitute for the property so removed from the Property other Equipment not necessarily of the same character but at least of equal quality in the performance of the particular function in question as that of the property so removed unless, in Tenant's reasonable opinion as set forth in a written notice to Landlord, the property so removed was performing an obsolete function or a function no longer required in connection with the then current use of the Property and replacement thereof is not necessary or appropriate to maintain, without impairment, the operation or character of the Property, its use and occupancy by Subtenants or its overall value.

Section 7.6 **Right of Entry**. Landlord (and its designee(s)) shall have the right to enter upon the Property, or any part thereof, at any time during the term hereof, for the purpose of ascertaining the condition of the Property or whether Tenant or any Subtenant is observing and performing their respective obligations hereunder, all without hindrance or molestation from Tenant or any Person claiming by, through or under Tenant. The above mentioned rights of entry shall be exercisable (other than in the case of an emergency) at reasonable times, at reasonable hours and on reasonable, prior written notice, and Landlord shall use reasonable efforts to minimize interference with Tenant and any Subtenants, and shall exercise such right under the supervision of Tenant's (and any such Subtenant's) employees, agents or designees provided the same are made reasonably available to Landlord for such purpose upon reasonable advance notice to Tenant and any such Subtenant (as applicable).

Section 7.7 **Utilities; Services; No Landlord Responsibility**. Tenant shall be responsible for all charges for gas, electricity, light, heat, water, sewerage and power, for protective and security services, for telephone and other communication services, and for all other public or private utility services which shall be used, rendered or supplied upon or in connection with the Property, or any part thereof, at any time during the term of this Lease. Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Property, nor shall Landlord have any duty or obligation to make any Alteration or repair to the Property. Tenant assumes the full

and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Property.

Section 7.8 **Environmental**. Tenant shall not undertake, permit or suffer any Environmental Activity at the Property other than (a) in compliance with all applicable Insurance Requirements and Legal Requirements and (b) in such a manner as shall keep the Property free from any lien imposed in respect or as a consequence of such Environmental Activity. Tenant shall take all necessary steps to ensure that any permitted Environmental Activity undertaken or permitted at the Property is undertaken in a manner as to provide prudent safeguards against potential risks to human health or the environment or to the Property. Tenant shall notify Landlord within twenty-four (24) hours after Tenant becomes aware of the release or discharge of any Hazardous Materials from or at the Property and Tenant shall forthwith remediate or remove such Hazardous Materials, subject to the last sentence of this **Section 7.8**. Landlord shall have the right from time to time to conduct an environmental audit of the Property, provided Landlord has reasonable cause to believe (i) Hazardous Materials have been released or discharged or is otherwise present at the Property or (ii) Tenant is otherwise in violation of any Legal Requirement or Insurance Requirement relating to Hazardous Materials, and Landlord provides written notice of its intention to conduct an environmental audit together with a statement setting forth the reasons therefor. Tenant shall cooperate in the conduct of such environmental audit. The cost of such audit shall be payable by Tenant upon Landlord's demand therefor; provided, however, that if Tenant objects to such audit by written notice received by Landlord prior to the initiation of such audit and such audit (and any more-detailed environmental audit of the same circumstances (e.g., a so-called phase II environmental assessment)) fails to identify any Environmental Activity in violation of Legal Requirements, Landlord shall pay the costs of such audit. Such audit shall be performed at reasonable times, at reasonable hours and on at least five (5) Business Days notice (except in the case of an emergency), Landlord shall make reasonable efforts to minimize interference with Tenant and any Subtenants, and shall require its audit contractor to carry commercial liability insurance in a commercially reasonable amount, naming Tenant and Landlord as additional insureds, and to deliver Tenant evidence thereof no less than five (5) Business Days prior to commencing such audit. Notwithstanding anything to the contrary in the foregoing portions of this **Section 7.8**: (A) nothing contained in this **Section 7.8** shall require Tenant to remove or remediate any Hazardous Waste unless required to do so by Legal Requirements; and (B) Tenant shall have the right, in accordance with **Section 7.4**, to contest the validity of any Legal Requirement applicable to the remediation or removal of Hazardous Materials, provided Tenant forthwith takes all necessary steps to prevent any further discharge or release of Hazardous Materials or any other or further deterioration to the Property caused by Hazardous Materials; provided, however, that, in any event, Tenant may not delay such remediation or removal during the pendency of such contest if the presence of such Hazardous Materials poses an imminent threat to the Property or any persons or if such delay could expose Landlord to increased liability arising from such Hazardous Materials.

Section 7.9 **Equitable Relief**. Tenant hereby acknowledges that Landlord may suffer irreparable harm by reason of a breach or threatened breach of the provisions of this **Article VII**, and, accordingly, in addition to any other remedy that Landlord may have under this Lease or as may be permitted by applicable law, Landlord shall be entitled to seek to enjoin the action, activity or inaction that gives rise to such breach or threatened breach by Tenant.

Section 7.10 **Windows**. Tenant shall not clean or require, permit, suffer or allow any window in the Improvements to be cleaned from the outside in violation of Section 202 of the Labor Law or any other Legal Requirements or Insurance Requirements.

Section 7.11 **Adverse Possession**. Tenant shall not suffer or permit the Property or any portion thereof to be used by the public or any Person without restriction or in such manner as would, with the lapse of time, impair title to the Property or any portion thereof, or create the basis for a legitimate claim or claims of adverse usage or adverse possession by the public, as such, or any Person, or of implied dedication of the Property, or any portion thereof.

Section 7.12 **Pre-Possession Obligations**. Except as expressly set forth hereunder or in a separate agreement between ESDC and Tenant, Tenant shall have no rights, obligations or liability in respect of the Property prior to the delivery of Possession.

ARTICLE VII
USE AND MAINTENANCE OF THE PROPERTY

Section 7.1 Permitted Use.

(a) Use. The Project and each Project Component or portion thereof shall be used, maintained, occupied and operated (i) in accordance with the requirements of the DUO, (ii) at a standard of at least that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan, and (iii) subject to the DUO and except as set forth in **Sections 7.1(c)** and **7.2** hereof, for any use permitted by Legal Requirements, including, without limitation, newsrooms, retail, service, auditoriums, dining facilities, communications facilities, production facilities, ancillary medical facilities, parking for not more than ten (10) cars, back office, storage and other uses as are incidental or ancillary thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the DUO or the operation of a Class "A" office building (as understood on the date hereof) in midtown Manhattan (the uses described in clauses (i), (ii) and (iii) above, the "**Permitted Use**"), and for no other use. Tenant agrees not to use, permit or suffer the Project to be used for any purposes not expressly permitted under this **Section 7.1(a)** without the prior written consent of Landlord.

(b) Display and Signage. All signage to be incorporated into the design of the Project, and all lighting to be installed in connection therewith, shall comply with the specific requirements of the DUO. Tenant shall install and operate, or cause to be installed and operated, lights and signs as required by the DUO by the date(s) prescribed in the DUO applicable to each category of lighting and signage set forth in the DUO.

(c) Common Elements. Subject to the immediately following sentence, the Common Elements (as defined in the Severance Subleases) shall not be used for any commercial purposes. The Common Element Leaseable Space may be used for commercial purposes but only in accordance with, and as contemplated by, **Section 34.1** hereof.

(d) Compliance with the DUO. From and after the Substantial Completion Date, Tenant shall maintain and operate the Project in compliance with the DUO.

Section 7.2 Restrictions on Use. Tenant shall not use, occupy, maintain or operate the Project, nor permit the same to be used, occupied, maintained or operated, nor do or permit anything to be done in, on or to the Project, in whole or in part, in a manner which would in any way:

(a) violate any construction permit or certificate of occupancy affecting the Property;

(b) constitute a public nuisance;

(c) violate any Legal Requirements or Insurance Requirements; or

(d) violate any requirements of the DUO.

Section 7.3 Interim and Long-Term Maintenance Obligations.

(a) Interim Maintenance Obligations. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such Existing Improvements are required by a Governmental Authority to be modified), at all times from the Delivery Date to the date Tenant commences the Demolition Work, Tenant shall:

(A) not cause any waste, damage, disfigurement or injury to or upon the Property or any part thereof, except damage, disfigurement or injury that is incidental to pre-construction activities permitted hereunder (and subject to repair of any such damage, disfigurement or injury required hereunder);

(B) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(C) not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(D) keep each building on the Property locked and secure;

(E) ensure that the exterior of the Property is well lit from dusk until dawn every day;

(F) ensure that alcoves, entrances, or other breaks in the streetwall are well lit;

(G) not cinder-block, cover, remove, block or seal in any manner any window on any façade of the Existing Improvements that is visible from the street; and

(H) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(b) Maintenance During Demolition Work and Tenant's Construction Work. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such improvement is required to be made by the express directive of a Governmental Authority

acting in its governmental capacity), at all times from the date Tenant commences the Demolition Work through the Substantial Completion Date, Tenant shall:

(A) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(B) except to the extent permitted under applicable Legal Requirements and all permits and authorizations required thereunder, not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(C) to the extent any Existing Improvement has not been demolished, keep such Existing Improvement locked and secure;

(D) to the extent any Existing Improvement has not been demolished, ensure that the exterior of such Existing Improvement is well lit from dusk until dawn every day;

(E) keep the Property free of graffiti and posters; and

(F) comply with the DUO.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(c) Long-Term Maintenance Obligations. (i) At all times during the term of this Lease from and after the Substantial Completion Date, Tenant shall (and/or shall cause each Subtenant (by incorporating the following provisions in every Sublease and using all reasonable efforts to enforce the same) to):

(A) not cause any waste to or upon the Property or any part thereof, nor permit or suffer any waste to or upon the Property;

(B) not cause physical damage (other than as part of any Construction Work permitted hereunder or as caused by a Casualty or Taking) to the Property or any part thereof, including the Core and Shell and Tenant's Subway Improvements (except in accordance with the Site 8 South Subway Agreement);

(C) take good care of the Property, make all repairs, restorations and replacements thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, necessary to (1) comply with all Legal Requirements, Insurance Requirements and the DUO and (2) maintain and operate the Property to a standard at least of that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan;

(D) maintain, repair, keep, use and occupy the Property in compliance with the DUO;

(E) maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear from rubbish, dirt, ice and snow and shall not impede the use of or obstruct the same or allow the same to be so impeded or obstructed in any manner;

(F) maintain and keep the sidewalks and vaults adjacent to the Property in good order, repair and condition (including the prompt repair of cracks therein and the maintenance of an even level thereof) and at all times keep the same in compliance with the DUO and Legal Requirements;

(G) operate the Retail Space for the conduct of business during the hours of operation set forth in the DUO;

(H) operate and maintain the Public Amenity as set forth in the DUO and in **Section 30.4** hereof;

(I) prohibit sales through window openings on the streetwall, except in the case of (1) a Subtenant whose business is primarily the operation of a newsstand or ticket sales or (2) the sale of tickets for movies and other attractions, i.e., display windows shall be used for display only and not as a point of sale; and

(J) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

Section 7.4 **Compliance with Legal Requirements.** Tenant shall promptly comply with all Legal Requirements and Insurance Requirements, foreseen or unforeseen, ordinary as well as extraordinary, structural or non-structural. Tenant shall have the right to contest the validity of any Legal Requirement or the application thereof in accordance with this **Section 7.4**. During such contest, compliance with any such contested Legal Requirement may be deferred by Tenant upon condition that before instituting any such proceedings, Tenant shall furnish to Landlord

security reasonably satisfactory to Landlord (it being agreed that an acceptable guaranty of an Acceptable Guarantor shall be security reasonably satisfactory to Landlord under this **Section** 7.4), securing compliance with the contested Legal Requirement and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably possible after the issuance of any notification by the applicable governmental authority with respect to required compliance with such Legal Requirement and shall be prosecuted to final adjudication with reasonable diligence. Tenant hereby agrees to indemnify Landlord from and against any and all Claims arising out of such proceeding. Notwithstanding the foregoing, Tenant promptly shall comply with any such Legal Requirement and compliance shall not be deferred if at any time there is a condition imminently hazardous to human life or health, the Property, or any part thereof, shall be in danger of being forfeited or lost, or if Landlord shall be in danger of being subject to criminal and/or civil liability or penalty (other than a fine which Tenant agrees to pay or in regard to which Tenant provides to Landlord an indemnity of Landlord by an Acceptable Guarantor) by reason of noncompliance therewith. The Obligations of Tenant to indemnify Landlord under this **Section** 7.4 shall survive the expiration or earlier termination of this Lease.

Section 7.5 No Waste. Except in connection with the Demolition Work, Tenant will not do, permit or suffer any waste to or upon the Property or any part thereof. Tenant shall have the right at any time and from time to time to sell or dispose of any Equipment, subject to this Lease, which may have become obsolete or unfit for use or which is no longer useful, necessary or economical in the operation of the Property; provided, however, that Tenant shall have substituted or shall promptly substitute for the property so removed from the Property other Equipment not necessarily of the same character but at least of equal quality in the performance of the particular function in question as that of the property so removed unless, in Tenant's reasonable opinion as set forth in a written notice to Landlord, the property so removed was performing an obsolete function or a function no longer required in connection with the then current use of the Property and replacement thereof is not necessary or appropriate to maintain, without impairment, the operation or character of the Property, its use and occupancy by Subtenants or its overall value.

Section 7.6 Right of Entry. Landlord (and its designee(s)) shall have the right to enter upon the Property, or any part thereof, at any time during the term hereof, for the purpose of ascertaining the condition of the Property or whether Tenant or any Subtenant is observing and performing their respective obligations hereunder, all without hindrance or molestation from Tenant or any Person claiming by, through or under Tenant. The above mentioned rights of entry shall be exercisable (other than in the case of an emergency) at reasonable times, at reasonable hours and on reasonable, prior written notice, and Landlord shall use reasonable efforts to minimize interference with Tenant and any Subtenants, and shall exercise such right under the supervision of Tenant's (and any such Subtenant's) employees, agents or designees provided the same are made reasonably available to Landlord for such purpose upon reasonable advance notice to Tenant and any such Subtenant (as applicable).

Section 7.7 Utilities; Services; No Landlord Responsibility. Tenant shall be responsible for all charges for gas, electricity, light, heat, water, sewerage and power, for protective and security services, for telephone and other communication services, and for all other public or private utility services which shall be used, rendered or supplied upon or in connection with the Property, or any part thereof, at any time during the term of this Lease. Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Property, nor shall Landlord have any duty or obligation to make any Alteration or repair to the Property. Tenant assumes the full

and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Property.

Section 7.8 Environmental. Tenant shall not undertake, permit or suffer any Environmental Activity at the Property other than (a) in compliance with all applicable Insurance Requirements and Legal Requirements and (b) in such a manner as shall keep the Property free from any lien imposed in respect or as a consequence of such Environmental Activity. Tenant shall take all necessary steps to ensure that any permitted Environmental Activity undertaken or permitted at the Property is undertaken in a manner as to provide prudent safeguards against potential risks to human health or the environment or to the Property. Tenant shall notify Landlord within twenty-four (24) hours after Tenant becomes aware of the release or discharge of any Hazardous Materials from or at the Property and Tenant shall forthwith remediate or remove such Hazardous Materials, subject to the last sentence of this **Section 7.8**. Landlord shall have the right from time to time to conduct an environmental audit of the Property, provided Landlord has reasonable cause to believe (i) Hazardous Materials have been released or discharged or is otherwise present at the Property or (ii) Tenant is otherwise in violation of any Legal Requirement or Insurance Requirement relating to Hazardous Materials, and Landlord provides written notice of its intention to conduct an environmental audit together with a statement setting forth the reasons therefor. Tenant shall cooperate in the conduct of such environmental audit. The cost of such audit shall be payable by Tenant upon Landlord's demand therefor; provided, however, that if Tenant objects to such audit by written notice received by Landlord prior to the initiation of such audit and such audit (and any more-detailed environmental audit of the same circumstances (e.g., a so-called phase II environmental assessment)) fails to identify any Environmental Activity in violation of Legal Requirements, Landlord shall pay the costs of such audit. Such audit shall be performed at reasonable times, at reasonable hours and on at least five (5) Business Days notice (except in the case of an emergency), Landlord shall make reasonable efforts to minimize interference with Tenant and any Subtenants, and shall require its audit contractor to carry commercial liability insurance in a commercially reasonable amount, naming Tenant and Landlord as additional insureds, and to deliver Tenant evidence thereof no less than five (5) Business Days prior to commencing such audit. Notwithstanding anything to the contrary in the foregoing portions of this **Section 7.8**: (A) nothing contained in this **Section 7.8** shall require Tenant to remove or remediate any Hazardous Waste unless required to do so by Legal Requirements; and (B) Tenant shall have the right, in accordance with **Section 7.4**, to contest the validity of any Legal Requirement applicable to the remediation or removal of Hazardous Materials, provided Tenant forthwith takes all necessary steps to prevent any further discharge or release of Hazardous Materials or any other or further deterioration to the Property caused by Hazardous Materials; provided, however, that, in any event, Tenant may not delay such remediation or removal during the pendency of such contest if the presence of such Hazardous Materials poses an imminent threat to the Property or any persons or if such delay could expose Landlord to increased liability arising from such Hazardous Materials.

Section 7.9 Equitable Relief. Tenant hereby acknowledges that Landlord may suffer irreparable harm by reason of a breach or threatened breach of the provisions of this **Article VII**, and, accordingly, in addition to any other remedy that Landlord may have under this Lease or as may be permitted by applicable law, Landlord shall be entitled to seek to enjoin the action, activity or inaction that gives rise to such breach or threatened breach by Tenant.

Section 7.10 Windows. Tenant shall not clean or require, permit, suffer or allow any window in the Improvements to be cleaned from the outside in violation of Section 202 of the Labor Law or any other Legal Requirements or Insurance Requirements.

Section 7.11 **Adverse Possession**. Tenant shall not suffer or permit the Property or any portion thereof to be used by the public or any Person without restriction or in such manner as would, with the lapse of time, impair title to the Property or any portion thereof, or create the basis for a legitimate claim or claims of adverse usage or adverse possession by the public, as such, or any Person, or of implied dedication of the Property, or any portion thereof.

Section 7.12 **Pre-Possession Obligations**. Except as expressly set forth hereunder or in a separate agreement between ESDC and Tenant, Tenant shall have no rights, obligations or liability in respect of the Property prior to the delivery of Possession.

ARTICLE VII
USE AND MAINTENANCE OF THE PROPERTY

Section 7.1 Permitted Use.

(a) Use. The Project and each Project Component or portion thereof shall be used, maintained, occupied and operated (i) in accordance with the requirements of the DUO, (ii) at a standard of at least that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan, and (iii) subject to the DUO and except as set forth in **Sections 7.1(c)** and **7.2** hereof, for any use permitted by Legal Requirements, including, without limitation, newsrooms, retail, service, auditoriums, dining facilities, communications facilities, production facilities, ancillary medical facilities, parking for not more than ten (10) cars, back office, storage and other uses as are incidental or ancillary thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the DUO or the operation of a Class "A" office building (as understood on the date hereof) in midtown Manhattan (the uses described in clauses (i), (ii) and (iii) above, the "**Permitted Use**"), and for no other use. Tenant agrees not to use, permit or suffer the Project to be used for any purposes not expressly permitted under this **Section 7.1(a)** without the prior written consent of Landlord.

(b) Display and Signage. All signage to be incorporated into the design of the Project, and all lighting to be installed in connection therewith, shall comply with the specific requirements of the DUO. Tenant shall install and operate, or cause to be installed and operated, lights and signs as required by the DUO by the date(s) prescribed in the DUO applicable to each category of lighting and signage set forth in the DUO.

(c) Common Elements. Subject to the immediately following sentence, the Common Elements (as defined in the Severance Subleases) shall not be used for any commercial purposes. The Common Element Leaseable Space may be used for commercial purposes but only in accordance with, and as contemplated by, **Section 34.1** hereof.

(d) Compliance with the DUO. From and after the Substantial Completion Date, Tenant shall maintain and operate the Project in compliance with the DUO.

Section 7.2 Restrictions on Use. Tenant shall not use, occupy, maintain or operate the Project, nor permit the same to be used, occupied, maintained or operated, nor do or permit anything to be done in, on or to the Project, in whole or in part, in a manner which would in any way:

(a) violate any construction permit or certificate of occupancy affecting the Property;

(b) constitute a public nuisance;

(c) violate any Legal Requirements or Insurance Requirements; or

(d) violate any requirements of the DUO.

Section 7.3 Interim and Long-Term Maintenance Obligations.

(a) Interim Maintenance Obligations. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such Existing Improvements are required by a Governmental Authority to be modified), at all times from the Delivery Date to the date Tenant commences the Demolition Work, Tenant shall:

(A) not cause any waste, damage, disfigurement or injury to or upon the Property or any part thereof, except damage, disfigurement or injury that is incidental to pre-construction activities permitted hereunder (and subject to repair of any such damage, disfigurement or injury required hereunder);

(B) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(C) not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(D) keep each building on the Property locked and secure;

(E) ensure that the exterior of the Property is well lit from dusk until dawn every day;

(F) ensure that alcoves, entrances, or other breaks in the streetwall are well lit;

(G) not cinder-block, cover, remove, block or seal in any manner any window on any façade of the Existing Improvements that is visible from the street; and

(H) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(b) Maintenance During Demolition Work and Tenant's Construction Work. (i) Taking into account the anticipated performance of Tenant's Construction Work and that Tenant has no obligations hereunder to improve the condition of the Existing Improvements (except in the event any such improvement is required to be made by the express directive of a Governmental Authority

acting in its governmental capacity), at all times from the date Tenant commences the Demolition Work through the Substantial Completion Date, Tenant shall:

(A) maintain and keep the sidewalks adjacent to the Property in reasonable and safe order, repair and condition;

(B) except to the extent permitted under applicable Legal Requirements and all permits and authorizations required thereunder, not obstruct the sidewalks in any manner and maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear of rubbish, dirt, ice and snow and shall not impede the free use of or obstruct the same or allow the same to be obstructed in any manner;

(C) to the extent any Existing Improvement has not been demolished, keep such Existing Improvement locked and secure;

(D) to the extent any Existing Improvement has not been demolished, ensure that the exterior of such Existing Improvement is well lit from dusk until dawn every day;

(E) keep the Property free of graffiti and posters; and

(F) comply with the DUO.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

(c) Long-Term Maintenance Obligations. (i) At all times during the term of this Lease from and after the Substantial Completion Date, Tenant shall (and/or shall cause each Subtenant (by incorporating the following provisions in every Sublease and using all reasonable efforts to enforce the same) to):

(A) not cause any waste to or upon the Property or any part thereof, nor permit or suffer any waste to or upon the Property;

(B) not cause physical damage (other than as part of any Construction Work permitted hereunder or as caused by a Casualty or Taking) to the Property or any part thereof, including the Core and Shell and Tenant's Subway Improvements (except in accordance with the Site 8 South Subway Agreement);

(C) take good care of the Property, make all repairs, restorations and replacements thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, foreseen and unforeseen, necessary to (1) comply with all Legal Requirements, Insurance Requirements and the DUO and (2) maintain and operate the Property to a standard at least of that of a Class "A" office building (as understood on the date hereof) in midtown Manhattan;

(D) maintain, repair, keep, use and occupy the Property in compliance with the DUO;

(E) maintain and keep the Property, and sidewalks and curbs adjacent thereto, free and clear from rubbish, dirt, ice and snow and shall not impede the use of or obstruct the same or allow the same to be so impeded or obstructed in any manner;

(F) maintain and keep the sidewalks and vaults adjacent to the Property in good order, repair and condition (including the prompt repair of cracks therein and the maintenance of an even level thereof) and at all times keep the same in compliance with the DUO and Legal Requirements;

(G) operate the Retail Space for the conduct of business during the hours of operation set forth in the DUO;

(H) operate and maintain the Public Amenity as set forth in the DUO and in **Section 30.4** hereof;

(I) prohibit sales through window openings on the streetwall, except in the case of (1) a Subtenant whose business is primarily the operation of a newsstand or ticket sales or (2) the sale of tickets for movies and other attractions, i.e., display windows shall be used for display only and not as a point of sale; and

(J) keep the Property free of graffiti and posters.

(ii) If Tenant fails to maintain the cleanliness of the sidewalks adjacent to the Property at least to the level of cleanliness maintained for the overall area of the Times Square BID, as determined by the Mayor's Office of Operations Sanitation Scorecard for as long as the same exists, or fails to promptly remove from the Improvements evidence of graffiti and such failure continues for five (5) Business Days after notice to Tenant specifying in reasonable detail such failure and setting forth Landlord's right to remove same on Tenant's behalf, Landlord shall, at the end of such five (5) Business Day period, be entitled to clean such sidewalks or remove such graffiti or cause the same to be cleaned or removed, as the case may be, at the expense of Tenant. Any and all costs incurred by Landlord in connection therewith shall be paid to Landlord's contractors or reimbursed to Landlord, as Landlord shall request, and shall accrue interest at the Interest Rate, in accordance with **Section 15.1** hereof.

Section 7.4 **Compliance with Legal Requirements**. Tenant shall promptly comply with all Legal Requirements and Insurance Requirements, foreseen or unforeseen, ordinary as well as extraordinary, structural or non-structural. Tenant shall have the right to contest the validity of any Legal Requirement or the application thereof in accordance with this **Section 7.4**. During such contest, compliance with any such contested Legal Requirement may be deferred by Tenant upon condition that before instituting any such proceedings, Tenant shall furnish to Landlord

security reasonably satisfactory to Landlord (it being agreed that an acceptable guaranty of an Acceptable Guarantor shall be security reasonably satisfactory to Landlord under this **Section 7.4**), securing compliance with the contested Legal Requirement and payment of all interest, penalties, fines, fees and expenses in connection therewith. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably possible after the issuance of any notification by the applicable governmental authority with respect to required compliance with such Legal Requirement and shall be prosecuted to final adjudication with reasonable diligence. Tenant hereby agrees to indemnify Landlord from and against any and all Claims arising out of such proceeding. Notwithstanding the foregoing, Tenant promptly shall comply with any such Legal Requirement and compliance shall not be deferred if at any time there is a condition imminently hazardous to human life or health, the Property, or any part thereof, shall be in danger of being forfeited or lost, or if Landlord shall be in danger of being subject to criminal and/or civil liability or penalty (other than a fine which Tenant agrees to pay or in regard to which Tenant provides to Landlord an indemnity of Landlord by an Acceptable Guarantor) by reason of noncompliance therewith. The Obligations of Tenant to indemnify Landlord under this **Section 7.4** shall survive the expiration or earlier termination of this Lease.

Section 7.5 **No Waste**. Except in connection with the Demolition Work, Tenant will not do, permit or suffer any waste to or upon the Property or any part thereof. Tenant shall have the right at any time and from time to time to sell or dispose of any Equipment, subject to this Lease, which may have become obsolete or unfit for use or which is no longer useful, necessary or economical in the operation of the Property; provided, however, that Tenant shall have substituted or shall promptly substitute for the property so removed from the Property other Equipment not necessarily of the same character but at least of equal quality in the performance of the particular function in question as that of the property so removed unless, in Tenant's reasonable opinion as set forth in a written notice to Landlord, the property so removed was performing an obsolete function or a function no longer required in connection with the then current use of the Property and replacement thereof is not necessary or appropriate to maintain, without impairment, the operation or character of the Property, its use and occupancy by Subtenants or its overall value.

Section 7.6 **Right of Entry**. Landlord (and its designee(s)) shall have the right to enter upon the Property, or any part thereof, at any time during the term hereof, for the purpose of ascertaining the condition of the Property or whether Tenant or any Subtenant is observing and performing their respective obligations hereunder, all without hindrance or molestation from Tenant or any Person claiming by, through or under Tenant. The above mentioned rights of entry shall be exercisable (other than in the case of an emergency) at reasonable times, at reasonable hours and on reasonable, prior written notice, and Landlord shall use reasonable efforts to minimize interference with Tenant and any Subtenants, and shall exercise such right under the supervision of Tenant's (and any such Subtenant's) employees, agents or designees provided the same are made reasonably available to Landlord for such purpose upon reasonable advance notice to Tenant and any such Subtenant (as applicable).

Section 7.7 **Utilities; Services; No Landlord Responsibility**. Tenant shall be responsible for all charges for gas, electricity, light, heat, water, sewerage and power, for protective and security services, for telephone and other communication services, and for all other public or private utility services which shall be used, rendered or supplied upon or in connection with the Property, or any part thereof, at any time during the term of this Lease. Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Property, nor shall Landlord have any duty or obligation to make any Alteration or repair to the Property. Tenant assumes the full

and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Property.

Section 7.8 **Environmental**. Tenant shall not undertake, permit or suffer any Environmental Activity at the Property other than (a) in compliance with all applicable Insurance Requirements and Legal Requirements and (b) in such a manner as shall keep the Property free from any lien imposed in respect or as a consequence of such Environmental Activity. Tenant shall take all necessary steps to ensure that any permitted Environmental Activity undertaken or permitted at the Property is undertaken in a manner as to provide prudent safeguards against potential risks to human health or the environment or to the Property. Tenant shall notify Landlord within twenty-four (24) hours after Tenant becomes aware of the release or discharge of any Hazardous Materials from or at the Property and Tenant shall forthwith remediate or remove such Hazardous Materials, subject to the last sentence of this **Section 7.8**. Landlord shall have the right from time to time to conduct an environmental audit of the Property, provided Landlord has reasonable cause to believe (i) Hazardous Materials have been released or discharged or is otherwise present at the Property or (ii) Tenant is otherwise in violation of any Legal Requirement or Insurance Requirement relating to Hazardous Materials, and Landlord provides written notice of its intention to conduct an environmental audit together with a statement setting forth the reasons therefor. Tenant shall cooperate in the conduct of such environmental audit. The cost of such audit shall be payable by Tenant upon Landlord's demand therefor; provided, however, that if Tenant objects to such audit by written notice received by Landlord prior to the initiation of such audit and such audit (and any more-detailed environmental audit of the same circumstances (e.g., a so-called phase II environmental assessment)) fails to identify any Environmental Activity in violation of Legal Requirements, Landlord shall pay the costs of such audit. Such audit shall be performed at reasonable times, at reasonable hours and on at least five (5) Business Days notice (except in the case of an emergency), Landlord shall make reasonable efforts to minimize interference with Tenant and any Subtenants, and shall require its audit contractor to carry commercial liability insurance in a commercially reasonable amount, naming Tenant and Landlord as additional insureds, and to deliver Tenant evidence thereof no less than five (5) Business Days prior to commencing such audit. Notwithstanding anything to the contrary in the foregoing portions of this **Section 7.8**: (A) nothing contained in this **Section 7.8** shall require Tenant to remove or remediate any Hazardous Waste unless required to do so by Legal Requirements; and (B) Tenant shall have the right, in accordance with **Section 7.4**, to contest the validity of any Legal Requirement applicable to the remediation or removal of Hazardous Materials, provided Tenant forthwith takes all necessary steps to prevent any further discharge or release of Hazardous Materials or any other or further deterioration to the Property caused by Hazardous Materials; provided, however, that, in any event, Tenant may not delay such remediation or removal during the pendency of such contest if the presence of such Hazardous Materials poses an imminent threat to the Property or any persons or if such delay could expose Landlord to increased liability arising from such Hazardous Materials.

Section 7.9 **Equitable Relief**. Tenant hereby acknowledges that Landlord may suffer irreparable harm by reason of a breach or threatened breach of the provisions of this **Article VII**, and, accordingly, in addition to any other remedy that Landlord may have under this Lease or as may be permitted by applicable law, Landlord shall be entitled to seek to enjoin the action, activity or inaction that gives rise to such breach or threatened breach by Tenant.

Section 7.10 **Windows**. Tenant shall not clean or require, permit, suffer or allow any window in the Improvements to be cleaned from the outside in violation of Section 202 of the Labor Law or any other Legal Requirements or Insurance Requirements.

Section 7.11 **Adverse Possession**. Tenant shall not suffer or permit the Property or any portion thereof to be used by the public or any Person without restriction or in such manner as would, with the lapse of time, impair title to the Property or any portion thereof, or create the basis for a legitimate claim or claims of adverse usage or adverse possession by the public, as such, or any Person, or of implied dedication of the Property, or any portion thereof.

Section 7.12 **Pre-Possession Obligations**. Except as expressly set forth hereunder or in a separate agreement between ESDC and Tenant, Tenant shall have no rights, obligations or liability in respect of the Property prior to the delivery of Possession.

AMENDED AND RESTATED

AGREEMENT OF LEASE

between

42ND ST. DEVELOPMENT PROJECT, INC.,
Landlord

and

FOUR TIMES SQUARE CENTER PARTNERS, L.P.,
Tenant

Premises

Block: 1013
Lots: 29, 37, 137, 36, 136, 135, 35 and 34
Borough of Manhattan
City, County and State of New York

Dated as of October 7, 1994

#40062305.2

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.1. Type of Use. Effective upon the Substantial Completion Date, Tenant shall use and operate the Premises throughout the Term only as a first-class office building, with restaurant, retail (as permitted in the Retail Guidelines), service, classroom, showroom, parking, back office, storage and other uses incidental thereto, in accordance with the certificate(s) of occupancy therefor, and for no use or purpose inconsistent with the operation of a first class office building located in New York City.

Section 23.2. Prohibited Uses. Tenant shall not use or occupy the Premises, and, subsequent to the delivery of Possession of any Parcel in the Premises to Tenant, neither permit nor suffer such Parcel to be used or occupied, for any retail use other than as permitted in Article 5, the Retail Guidelines or for any unlawful or illegal business, use or purpose or for any purpose or in any way in violation of the certificate(s) of occupancy therefor or for any use not permitted by Section 23.1 (any such use herewith referred to as a "Prohibited Use"). Promptly upon its discovery of any such Prohibited Use subsequent to delivery of Possession of the Premises, Tenant shall take or cause to be taken all necessary steps, legal and equitable, to compel the discontinuation of such Prohibited Use, including, if necessary, the removal from the Premises of any Subtenants using any portion of the Premises for a Prohibited Use.

Section 23.3. Restriction of Public Use. At Landlord's request, Tenant shall immediately cease to suffer or permit the Premises or any portion thereof to be used by the public in a manner that would, with the passage of time, impair title to the Premises or any portion thereof, or in a manner that would, with the passage of time, create the basis for a claim or claims of prescriptive right, adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof, but only to the extent and for so long as such cessation of use is necessary to prevent such impairment of title, creation of claim or implied dedication, as the case may be.

87 Loew's Kings Theater

AGREEMENT OF LEASE

between

The CITY OF NEW YORK, Landlord

and

NEW YORK CITY LAND DEVELOPMENT CORPORATION, Tenant

Dated as of December 28, 2012

Premises: Former Loew's Kings Theatre
1027 Flatbush Avenue
Brooklyn, New York

Block 5132, Lots 16, 18 and 65

Section 22.02. Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any amounts paid by Landlord pursuant to Section 22.01, including all costs and expenses incurred by Landlord in connection therewith, shall be paid to Landlord on Landlord's demand, together with a late charge on the amounts so paid by Landlord calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.03. Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article shall not be, nor be deemed to be, (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to terminate this Lease and/or to take such other action as may be permissible hereunder as a result of such Default or Event of Default, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.04. Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23

PERMITTED USE; OPERATION

Section 23.01. Use. Tenant shall use and operate the Premises as a First Class Performing Arts Facility, primarily for live performances and, at Tenant's option, secondarily for motion pictures (whichever, "**Performances**"), but Tenant shall also have the right to use and operate the Premises for ancillary uses including assembly, offices, customary theatre concessions, retail sales of merchandise, food and/or beverage service (alcoholic and non-alcoholic) and other related uses; provided, however, that (x) the primary use of the Premises, and particularly those portions thereof which historically were used as the auditorium and lobby, shall be as a First Class Performing Arts Facility, (y) the use of the Premises or the pattern of programming thereof shall not compromise the character and reputation of the Premises as a First Class Performing Arts Facility and (z) the Premises may only be used as a Qualified Business. Subject to the previous sentence, but without otherwise limiting the generality of the foregoing, Tenant shall have:

(i) the right to present, or license or sublease the right to present, any and all musical, dramatic, theatrical, comedic, dance or other Performances;

(ii) the right to license or sublease all or any part of the Premises for receptions, dinners and other catered events, weddings, religious services or ceremonies, fundraising events, conventions and commercial events;

(iii) the right to license or sublease all or any part of the Premises for other public, private or commercial gatherings or assemblies;

(iv) the right to sell, or subcontract the right to sell, customary theatre concession merchandise, food and beverages (including, without limitation, alcoholic beverages);

(v) the right to sell naming and sponsorship rights as provided in Section 23.05; and

(vi) the right to operate, subcontract, or sublease the right to operate, one or more restaurants, bars, coffee shops, catering services, parking services, or other business enterprises.

Section 23.02. Prohibited Uses. The Premises may not be used for the sale or advertising of tobacco products. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful or illegal business, use or purpose or for any purpose (or in any way) in violation of the provisions of Section 23.01 or Article 16 or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.01 or Article 16, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.01 or Article 16. The provisions of this Section shall not restrict Tenant's rights under Article 34 to contest the validity or applicability to Tenant of any Requirements.

Section 23.03. Operation.

(a) The operation of the Premises shall be under the exclusive supervision and control of Tenant, provided that Tenant shall in all events operate the Premises consistent with its being a First Class Performing Arts Facility. Subject to the provisions of this Lease and applicable provisions of law, Tenant shall have discretion and control, free from interference, interruptions and disturbance, in all matters relating to the management and operation of the Premises including, without limitation, programming, charges for admission, credit policies, food and beverage services, employment policies, employee fringe benefits, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of inventories and services, promotion and publicity and, generally, control of all activities necessary for the operation of the Premises. Tenant is and shall be authorized to make, enter into and perform any contracts and agreements necessary to carry out and place in effect the terms and conditions of this Lease.

(b) Promptly, but in no event later than three months following Substantial Completion of the Project Work, Tenant shall commence operation of the Premises for the purposes described in Section 23.01 above (the first Performance within the Theatre following the Substantial Completion of the Project Work is herein termed the "**Opening**") and thereafter shall establish and continue active use and operation for the Term.

(c) If, commencing with respect to the fifth Lease Year, and with respect to each Lease Year subsequent thereto, (1) the Theatre is not used, during such Lease Year and the next two succeeding Lease Years, for an average of at least 110 Performances per year or (2) an

average of fewer than 137,500 Tickets per year are sold for Performances held during such Lease Year and the next two succeeding Lease Years, then Landlord shall have the right to notify Tenant in writing that such level of use is not satisfactory, which notice must be given within 45 days after the end of any such three Lease Year period. If, during the next succeeding Lease Year, fewer than 110 Performances are held in the Theatre, or fewer than 137,500 Tickets are sold for Theatre Performances held during such Lease Year, then Tenant shall pay to Landlord, within 45 days after the end of such Lease Year, as liquidated damages for such failure, the sum of One Dollar and Seventy-Five Cents ($1.75), as such sum is adjusted in accordance with increases in the CPI from the Commencement Date, multiplied by the number of Tickets by which 137,500 exceeds the number of Tickets sold for Theatre Performances held during such Lease Year, which damages shall constitute the sole and exclusive remedy of Landlord on account of such failure.

(d) If, for any three consecutive calendar years following the 15th anniversary of the Opening, an average of at least 90 Performances are not held at the Theatre per year or an average of fewer than 110,000 Tickets for Theatre Performances are sold per year, then Landlord shall have the option to terminate this Lease.

(e) If, following the Opening, subject to Uncontrollable Circumstances, the Theatre has no Performances for a period in excess of six months, then Landlord shall have the option to terminate this Lease.

(f) Anything in this Lease to the contrary notwithstanding, Landlord's rights with respect to the enforcement of the provisions of subdivision (a) of this Section 23.03 with respect to continuous operation shall be limited to those specifically set forth in subdivisions (b), (c) and (d) hereof.

Section 23.04. Complimentary Booking Dates. Tenant shall make available during each Lease Year, at no rental or similar basic occupancy fee, at such reasonable times as may be mutually agreed to by Tenant and such groups, (x) ten booking dates for the Theatre and (y) 20 booking dates for the multi-purpose facility, if any, located in the basement of the Building. Such dates will be available to non-profit groups chosen by Tenant and will be awarded by Tenant on a space-available basis in keeping with Tenant's standard booking policies. Such groups will be required to enter into a standard license agreement with Tenant and will be responsible for any incremental operating costs associated with the event, based on Tenant's published rate card at the time of licensing. No such group shall be permitted to use the Premises for any event or other use that competes with Tenant's operation of the Premises or which is inconsistent with Tenant's permitted uses and other obligations under this Lease. Each group's use of and access to the Premises under this Section shall be subject to all standard policies and procedures of Tenant, including scheduling and staffing considerations.

Section 23.05. Naming Rights, Concessions , etc.

(a) Subject to Landlord's right of approval set forth in (b) below, Tenant shall have the exclusive right to determine, create, grant and operate (1) all naming rights and sponsorships (including signage therefor) with respect to (a) the Premises as a whole, (b) the Theatre and other performance areas within the Premises, (c) Performances and (d) series of Performances; (2) all

concessions (including alcoholic beverages), merchandise and novelty sales at the Premises; (3) all ticketing services at and with respect to all performances at the Premises; and (4) all parking services at the Premises. In furtherance of the foregoing, Landlord hereby represents, warrants and agrees that neither it nor any agent has granted and neither it nor any agent will grant any rights with respect to the use or operation of the Premises, including such with respect to sponsorship, naming, seating, concession, ticketing or parking, during or with respect to the Term other than as provided in this Lease. Tenant shall not permit to be used any name that would have a detrimental effect on the standing or reputation of the City, or its officials, the Theatre or the neighborhood.

(b) The above notwithstanding Landlord shall have an absolute right to approve the name under which the Building and/or the Theatre operates or does business. Not less than 30 days prior to adopting or contracting with respect to any such name, Tenant shall notify Landlord of the proposed name, and a description of any associated party. Tenant shall not adopt any such name or contract with respect thereto without Landlord's written consent. Landlord shall deny such consent only where it reasonably determines that the proposed name or associated party would have a detrimental effect on the standing or reputation of the City, or its officials, the Theatre or the neighborhood. Landlord shall grant or deny its consent within 30 days after a property request from Tenant.

(c) Landlord hereby grants to Tenant (i) the right, which shall be exclusive except for Landlord's right to use the same for its own or related or contracted entities' purposes for tourist and other promotion and related purposes, to use the name "Kings Theatre", or any part thereof, and any likeness of the Premises, in Tenant's advertising, promotion and signage relating to the operation of the Premises, (ii) the exclusive right to market and sell apparel items, including hats, shirts and sweatshirts, bearing the name "Kings Theatre", or any part thereof, or likeness of the Premises, and (iii) the exclusive right to use, and to allow others to use, the name "Kings Theatre", or any part thereof, and any likeness of the Premises, in marketing, promotional and bidding materials and its relationship with the Premises. If Landlord, LDC or EDC holds or obtains trademark protection on items bearing the name "Kings Theatre", or any part thereof, and/or likeness, Landlord shall, or shall cause LDC or EDC to, license each such trademark to Tenant, at a nominal cost, in connection with Tenant's use of such name and likeness. The term of any such license shall be concurrent with the Term of this Lease and shall terminate automatically upon the expiration or earlier termination of this Lease, except with respect to inventory then on hand of Tenant, as to which Tenant shall have the right to continue selling after the termination of this Lease. Landlord, LDC and EDC make no representation that they have rights to the name "Kings Theatre," but intend to convey whatever rights they may have to Tenant, subject to the above.

Section 23.06. Signage. Tenant shall consult with and obtain the approval of Landlord in connection with the installation of any and all exterior signage at the Premises. Landlord's exercise of such right of approval shall be limited to reasonably insuring that such signage is consistent with the Premises' character as a First Class Performing Arts Facility, and with any applicable Requirements.

Section 23.07. Permits.

(a) Landlord acknowledges that in order for Tenant to carry out the intended uses under this Lease, Tenant will need to obtain various licenses and permits including, without limitation, licenses to sell food and beverages including alcohol ("**Tenant Permits**"). Landlord will, and will cause EDC to (x) cooperate (for example, by signing as "owner" where necessary) in Tenant's efforts to secure and maintain such Permits and (y) broadly support the Project and the operation of the Premises as provided in this Lease.

(b) Tenant shall have the option to terminate this Lease at any time upon 60 days written notice to Landlord in the event of a withdrawal, revocation or non-renewal (including the imposition of a new requirement for renewal) by any Governmental Authority having jurisdiction, of any material Tenant Permit where such withdrawal or revocation or non-renewal is due to circumstances beyond Tenant's reasonable control and through no fault of Tenant, unless such Tenant Permit, or an equivalent permit, is reinstated, reissued or renewed within such 60 days. Notwithstanding the foregoing, Tenant shall use its commercially reasonable efforts to maintain all Tenant Permits at all times throughout the Term of this Lease, and to have such Tenant Permits reinstated, reissued or renewed promptly upon their withdrawal, revocation or non-renewal.

ARTICLE 24

EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Definition. Each of the following events shall be an "**Event of Default**" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten days after written notice from Landlord to Tenant, specifying such failure;

(b) Reserved;

(c) if Tenant shall fail to Substantially Complete the Project Work within 12 months after the Scheduled Completion Date, subject to Unavoidable Delays;

(d) if, following the Opening, subject to Uncontrollable Circumstances, the Theatre has no Performances for a period in excess of six months;

(e) if Tenant shall enter into an Assignment, Transfer or Major Sublease without compliance with the provisions of this Lease and such Assignment, Transfer or Major Sublease shall not be made to comply with the provisions of this Lease or cancelled within thirty (30) days after Landlord's notice thereof to Tenant;

(f) if Tenant shall fail to observe or perform (subject to Unavoidable Delays) one or more of the other material terms, conditions, covenants or agreements of this Lease or any provisions of the Interim Agreement to be performed after the Commencement Date, or if Funding Recipient shall fail to observe or perform (subject to Unavoidable Delays) one or more of the material terms, conditions, covenants or agreements of the Funding Agreement, and such failure shall continue for a period of 60 days after Landlord's notice thereof to Tenant specifying

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Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article XXII shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 41.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
PERFORMANCE AND COMMITMENTS

Section 23.1 Use and Operating Requirements.Tenant acknowledges and agrees that its ongoing commitment to use and operate the Overall Project in accordance with the Overall Project Commitments, and otherwise in accordance with this Section 23.1, is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article XXIII shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Overall Project as follows:

(a) Tenant shall cause the Premises, or the applicable portions thereof so indicated in the Overall Project Commitments, to be used and operated for Academic Uses (the "Required Uses").

(b) For a period of not less than thirty (30) years following the Substantial Completion of the First Academic Facility, Tenant shall cause the First Academic Facility to be used and operated solely as an Academic Facility by a not-for-profit corporation exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3) or a limited liability company the sole member of which is a not-for-profit corporation exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3); provided, that no more than ten percent (10%) of the square footage of the First Academic Facility may be used for incubator uses (the "First Academic Facility Required Uses").

(c) In addition to Tenant's obligation to comply with the Overall Project Commitments, Tenant may use portions of the Premises for the following additional uses: Community Uses, student lounges in residential Buildings, residences for Academic Persons, ancillary recreational uses, visitor lodging, facility maintenance and operations, eating and drinking establishments, corporate co-location space for technology-related business and other uses that are ancillary to the Academic Uses; provided, that, with respect to each of the

foregoing, such use and operation must be (i) primarily for the use of Academic Persons or other Persons utilizing the Premises at the invitation of Tenant or its Subtenants in furtherance of the Overall Project Mission and (ii) at all times in compliance with the Overall Project Commitments (collectively, the "Permitted Non-Academic Uses").

(d) Tenant shall cause each of the Phase 1 Operations, Phase 2 Operations, and/or Full Build Operations, as applicable, to comply with the applicable Phase 1 Operating Commitments, Phase 2 Operating Commitments, and/or Full Build Operating Commitments, including without limitation maintaining Tenant's accreditation to operate the Academic Uses, all as set forth in the Overall Project Commitments.

(e) Tenant shall comply with the HireNYC Program annexed as Exhibit H to this Lease.

(f) Prohibited Uses. Tenant shall not use or occupy the Premises, and shall not permit the Premises or any part thereof to be used or occupied for any purpose, other than Required Uses and Permitted Non-Academic Uses without the prior written consent of Landlord in its sole discretion. Without limiting the generality of the preceding sentence, Tenant shall not use or permit the Premises to be used (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 23.1 or Article XVI hereof or the certificate(s) of occupancy for the Premises, (iii) in such manner as may make void or voidable any insurance then in force with respect to the Premises, or (iv) for general commercial, retail or residential uses that are not ancillary to the Overall Project Mission as set forth in the Overall Project Commitments and/or are not Permitted Non-Academic Uses. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises in violation of this Section 23.1, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 23.1 or Article XVI hereof. The provisions of this Section 23.1 shall not restrict Tenant's rights under Article XXXIV hereof to contest any Requirements.

Section 23.2 Overall Project Report. Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Lease Administrator may reasonably request from time to time (but not more than twice during any twelve month period) upon not less than sixty (60) days prior written notice, Tenant shall deliver a written report to Lease Administrator (the "Overall Project Report") setting forth in narrative form a status report on the Development, and the manner in which Tenant is complying with the Overall Project Commitments and the Letter Commitments, which written report shall be in a form and contain such information as shall be reasonably satisfactory to Landlord. During the 30-year period of applicability of the First Academic Facility Required Uses, Tenant shall deliver an additional copy of the Overall Project Report to the City's Office of Management and Budget at an address directed by the Lease Administrator, at the same time as the same is delivered to Lease Administrator. The Overall Project Report shall, among other things, contain Tenant's certification that (i) the Phase 1 Development, Phase 2 Development, and/or Full Build Development, as applicable, are in compliance with the applicable Phase 1 Development Commitments, Phase 2 Development Commitments, and/or Full Build Development

Commitments, (ii) the Phase 1 Operations, Phase 2 Operations, and/or Full Build Operations, as applicable, are in compliance with the applicable Phase 1 Operating Commitments, Phase 2 Operating Commitments, and/or Full Build Operating Commitments, (iii) in its reasonable and good faith judgment, Tenant anticipates that it will be able to comply timely with any Development Commitments and/or Operating Commitments to be performed in the upcoming Lease Year as set forth in the Overall Project Commitments, (iv) the First Academic Facility is being used and operated in strict compliance with the First Academic Facility Required Uses, (v) all revenue realized by Tenant as a result of any Assignment, Transfer, or Sublease has been used solely for funding the use, operation and maintenance of the Academic Facilities, the Operating Commitments or for another purpose relating to the operations of the Overall Project (which certification shall include a sources and uses reasonably satisfactory to Lease Administrator evidencing same), and (vi) the Tenant is in compliance with the Letter Commitments and in its reasonable and good faith judgment, Tenant anticipates that it will be able to comply fully with all Letter Commitments to be performed in the upcoming Lease Year. In the event that Tenant shall be unable to provide the required certification, the Overall Project Report shall identify any areas of non-compliance with specificity, and explain the reasons for such non-compliance (a "Non-Compliance Notice"). Each Overall Project Report shall also include a report by Tenant tracking the economic impact and the community benefits of the Overall Project. Each Overall Project Report shall additionally include information on the occupancy of the apartments in the first residential building demonstrating compliance with the restriction set forth in the definition of "Academic Person." Landlord shall endeavor to review each Overall Project Report and submit any questions thereto or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Overall Project Report.

Section 23.3 Failure to Comply with Development Commitments or Operating Commitments; Recovery Plan. If the Overall Project Report shall contain any Non-Compliance Notices (other than a Non-Compliance Notice pertaining to Tenant's inability to make the certifications described in clause (iv) or (v) of Section 23.2 above), then Tenant shall submit to Landlord within ten (10) Business Days thereafter (or within ten (10) Business Days following notice from Landlord to Tenant of Tenant's Default with respect to the Overall Project Commitments) a written recovery plan (a "Recovery Plan"), which Recovery Plan shall set forth in detail Tenant's plan and commitment to restore compliance with the Overall Project Commitments and Letter Commitments in manner and within specified time periods mutually satisfactory to Landlord and Tenant. Upon Landlord's and Tenant's agreement on a Recovery Plan that is mutually satisfactory to both Landlord and Tenant, as evidenced by Landlord's written approval of the Recovery Plan (an "Approved Recovery Plan"), the underlying non-compliance shall be deemed waived if and for so long as Tenant complies with the Recovery Plan. Notwithstanding the foregoing, if a Default shall occur under Sections 24.1(b) or (c) hereunder (i.e., failure to Commence and/or Substantially Complete the Phase 1 Development on or before the scheduled dates therefor, subject to an Unavoidable Delay) or Section 24.1(i) (i.e., First Academic Facility Use Default), Tenant shall not be entitled to a tolling of its cure period or a waiver of its Default by submission of a Recovery Plan.

(b) If Tenant fails timely to submit a Recovery Plan as provided in Section 23.3(a), or there is not an Approved Recovery Plan on or before the one hundred twentieth (120th) day after Tenant's submission of a proposed Recovery Plan, then Landlord shall be entitled to proceed as provided in Article XXIV of the Lease with respect to the

applicable breach by Tenant of the Overall Project Commitments or Letter Commitments, as the case may be, without further reference to this Section 23.3 in respect of such breach.

(c) If Tenant shall be in Default of any of its obligations under Sections 24.1 (d) or (e) hereunder (i.e., failure to Commence and/or Substantially Complete the Phase 2 Development and/or Full Build Development on or before the scheduled dates therefor, subject to Unavoidable Delay), and there is no Approved Recovery Plan in effect with respect to such Default on or before the one hundred twentieth (120th) day after Landlord's notice to Tenant of such Default, then Tenant shall have the right to deliver to Landlord a notice (an "Extension Notice") setting forth Tenant's intention to delay the Commencement and/or Substantial Completion of the Phase 2 Development and/or Full Build Development, as applicable, for one or more periods, not to exceed (10) years in the aggregate, from the applicable scheduled commencement date or scheduled completion date therefor, upon the following conditions: (i) no Default on the part of Tenant (other than the Default that is the subject of the Extension Notice and any concomitant Defaults in Operating Commitments for such Phase(s)) has occurred and is then continuing; (ii) Tenant shall from and after the date of the Extension Notice pay Fair Market Rent on a monthly basis for all portions of the Premises subject to the Extension Notice (which, for avoidance of doubt, shall include all unbuilt portions of the Premises, and portions on which there is delayed Substantial Completion), until the date on which Tenant, as applicable, Commences the Construction Work and/or Substantially Completes the Construction Work which was the subject of the Extension Notice (the "Extension Period"); and (iii) the giving of the Extension Notice shall extend all of the future dates for Commencement and Substantial Completion of the Phase 2 Project and Full Build Project and concomitant Operating Commitments for such Phase(s) on a day-to-day basis for the Extension Period. Upon the cure of the Default(s) giving rise to the Default that is subject of the Extension Notice, the Fair Market Rent shall automatically be reduced to the Base Rent otherwise payable under this Lease, commencing with the next calendar month.

ARTICLE XXIV
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder (including, without limitation, any applicable Fair Market Rent) and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to Commence the Construction Work for the Phase 1 Development on or before the applicable Scheduled Commencement Date for the Phase 1 Development set forth in the Overall Project Commitments (subject to Unavoidable Delays);

(c) if Tenant shall fail to Substantially Complete the Phase 1 Development substantially in accordance with the Approved Plans and Specifications therefor, on or before the Scheduled Completion Date for the Phase 1 Development set forth in the Overall Project Commitments (subject to Unavoidable Delays);

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(d) Return of Deposits. If the Event of Default that gave rise to Landlord's demand for Tenant to make deposits for Impositions or insurance premiums under the provisions of Section 7.01(a) hereof has been cured by Tenant and, for a period of twelve (12) consecutive months following such cure, no Event of Default with respect to any monetary obligation of Tenant under this Lease has occurred that has not been cured within the applicable grace period, then, at any time after the expiration of such twelve (12) month period, upon demand by Tenant and provided no Default with respect to any monetary obligation of Tenant under this Lease then exists, Landlord shall cause Depository to return to Tenant all unexpended moneys then held by Depository pursuant to the provisions of Sections 7.01(a) and (c) hereof, which shall not have been applied by Depository pursuant to the provisions of this Article 7. Thereafter, Tenant shall not be required to make any deposits required by this Article 7 unless and until there shall occur within a twenty-four (24) month period two (2) subsequent Events of Default with respect to any monetary obligation of Tenant under this Lease and Landlord has demanded of Tenant to make such deposits.

(e) Intentionally Deleted.

Section 7.02 Effect of Sale or Transfer of Premises By LandlordIn the event of Landlord's sale or transfer of the Premises, Depository shall continue to hold any moneys deposited with it pursuant to the provisions of Sections 7.01(a) and (c) hereof and shall transfer such deposits to a special account with established in the name of the Person who acquires the Premises and becomes Landlord for the purposes provided in the applicable provisions of this Lease. Upon such sale or transfer, the transfer of such deposits and notice thereof to Tenant, Landlord shall be deemed to be released to the extent of the deposits so transferred from all liability with respect thereto and Tenant shall look solely to the new Landlord with respect thereto. Landlord shall promptly deliver to Tenant a copy of the instrument of transfer to the new Landlord. The provisions of this Section shall apply to each successive transfer of such deposits.

Section 7.03 Effect of TerminationUpon the Expiration of the Term, if this Lease shall terminate, or the Term shall terminate or expire and a new lease shall not be entered into, all deposits then held by Depository, shall be applied by Landlord on account of any and all sums due under this Lease and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant within ninety (90) days or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord on demand.

ARTICLE 8.
USE OF PREMISES

Section 8.01 Permitted Use.

Subject to the provisions herein, Tenant shall use the Premises for the sole purposes of constructing, equipping, operating and occupying, for its own use and Authorized User(s)' use, as an approximately 212-space paved, lit, and landscaped parking lot containing approximately 179 spaces for standard vehicles, 7 spaces for accessible vehicles, 15 spaces for small trucks and 11 spaces for large trucks, and uses incidental to the foregoing ("Permitted Uses"). A list of Authorized User(s) shall be made available to Landlord upon written request. At all times, the

Permitted Uses must be in accordance with the New York City Zoning Resolution, as amended from time to time, relevant certificates of occupancy, Federal Aviation Administration ("FAA") use and height restrictions, and applicable Requirements rules and regulations. Subject to Landlord's written approval which approval shall not be unreasonably withheld or delayed, Tenant may use the Premises for manufacturing purposes provided that such use is in accordance with the New York City Zoning Resolution, as amended from time to time, relevant certificates of occupancy, Federal Aviation Administration ("FAA") use and height restrictions, and applicable Requirements. Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Section 8.02 Requirements for Conduct of Business.

This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use.

Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises or any subtenant, as applicable, using any portion of the Premises for any such business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 Hazardous Substances.

(a) Tenant shall not cause or permit, as the result of any intentional or unintentional act or omission on the part of Tenant, and/or their respective Representatives, occupants, invitees and licensees to release Hazardous Substances in, from, at or onto any portion of the Premises in violation of any Environmental Laws.

(b) The Premises shall be delivered "as-is". As of the Lease Commencement Date, Tenant shall assume all liability for Hazardous Substances on the Premises from that day forward until the end of the Term, including but not limited, to the disturbance of any pre-existing conditions, except that Tenant shall have no liability for claims made by third parties relating to any tort or environmental liabilities under any Environmental Law for any injury

suffered during the period prior to the date when Tenant took possession of the Premises. Further, Tenant shall not be responsible for liability for Hazardous Substances to the extent arising from any negligent acts or omissions of Landlord, NYCLDC, NYCEDC, or DCAS and/or any of their respective agents, representatives and contractors. Notwithstanding the previous sentence, to the extent pre-existing conditions are disturbed as a result of actions that occur during Tenant's occupancy of the Premises, Tenant shall be responsible for any resulting liability (except for liability for third party actions referenced in the second sentence of this paragraph). For the purposes hereof, Tenant's possession of the Premises shall be deemed to include, but not be limited to, any period during which Tenant made use and/or occupancy of the Premises pursuant to any month to month lease between AMB Property L.P. (and any affiliated entities, and/or Prologis, L.P. and any affiliated entities) and Landlord for the Premises (the "City-Prologis Month to Month Lease"). In the event any Hazardous Substances shall be found within, under, or upon the Premises, Tenant shall (x) promptly take or cause to be taken any action required by a Governmental Authority under any applicable Environmental Laws with respect to such Hazardous Substances, (y) notify Landlord of the discovery of any occurrence or conditions on the Premises, or any real property adjoining or in the vicinity of the Premises to the extent that Tenant has knowledge of same, provided that Tenant shall have no duty to make independent inquiry or investigation unless required by any applicable law, and solely to the extent the occurrence or conditions is or are reasonably likely to cause the Premises or any part thereof to be subject to any liability or action under any Environmental Law, and (z) notify Landlord of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Premises pursuant to any applicable Environmental Law. The expense for all such action shall be the responsibility of the Tenant, except that Tenant shall not have any duty to pay for or to reimburse Landlord for any costs or expenses resulting from any negligent acts or omissions of Landlord, NYCLDC, NYCEDC, or DCAS and/or any of their respective agents, representatives and contractors, and Landlord shall bear all costs and expenses for any such negligent acts or omissions. All action with respect to any Hazardous Substances on the Premises shall be performed in accordance with all Requirements and receive the necessary regulatory department sign offs. To the extent Landlord shall not incur any cost, Landlord shall make good faith efforts to cooperate with Tenant in Tenant's efforts to obtain any necessary regulatory department sign offs. Notwithstanding the above, provided the Requirement specifically provides for challenge or deferral, Tenant shall have the right to so challenge and defer compliance with such Requirement in accordance with the terms therewith, if no dangerous or hazardous condition then exists or would be caused or lien would be created by such deferral and Tenant complies with the reasonable requirements of the Landlord regarding the Hazardous Substances at issue. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this Article, Tenant shall submit or cause to be submitted to Landlord a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. Tenant shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide Landlord with an updated schedule.

(c) Tenant shall comply with or cause to be complied with all applicable federal, state and local laws concerning any Hazardous Substance that Tenant or other occupant of the Premises produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Premises or transports from the Premises. Tenant shall also comply with all applicable federal, state, and local laws related to the health and safety of its employees.

Section 8.05 No Representations or Warranty by Landlord.

(a) Neither Landlord, Lease Administrator nor Apple has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord, Lease Administrator nor Apple has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord, Lease Administrator nor Apple, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord, Lease Administrator and Apple, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

Section 8.06 Termination Right.

To the extent the Permitted Uses, as they relate solely to the Tenant and Authorized User(s), are no longer permitted on the entire Premises as a result of change in the Requirements and Port Authority Airport Lease (as defined in Section 19.02), Tenant shall be permitted to terminate the Lease upon at least thirty (30) days' but not more than ninety (90) days' notice to the Landlord from the date of the Requirement change. In such event, Landlord shall in a reasonably prompt manner refund to Tenant the amount of the Unencumbered Premises Base Rent as prorated from the date of termination for the remainder of the Initial Term or the then-current Renewal Term (as applicable). Notwithstanding the previous sentence, Tenant's termination notice set forth in the immediately preceding sentence shall not be effective if Landlord delivers to Tenant, within fifteen (15) days after the date Landlord receives Tenant's termination notice, a waiver or other written authorization that would either immediately or by a reasonable date certain allow the Tenant and any Authorized User to use the Premises for the Permitted Uses.

ARTICLE 9.
Intentionally Deleted.

ARTICLE 10.
LANDLORD'S ACCESS TO ENTER

Landlord hereby reserves for itself and Lease Administrator, and their respective Representatives and invitees, a right of access to enter the Premises for the following purposes: (i) to maintain, replace and repair existing municipal facilities including but not limited to railroads located within, above or below the Premises, if any, and (ii) to maintain its fire communications facilities, sewers, water mains and street sub-surface below the Premises, if any.

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any of the Indemnitees arising out of any claim by any Person alleging bodily injury as a result of exposure to any Hazardous Substances occurring on the Premises prior to the Effective Date (except to the extent, if any, the same was caused by the act, omission or negligence of any party claiming by, through or under Tenant at any time including during Tenant's due diligence activities).

ARTICLE 22
LANDLORD'S RIGHT TO DISCHARGE LIENS

Section 22.1 Discharge of Liens. If Tenant shall fail to cause any mechanic's, laborer's, vendor's, materialman's or similar statutory lien or any public improvement lien to be discharged in accordance with the provisions of Article 17 hereof, and if such lien shall continue for an additional twenty (20) days after the applicable cure period provided for in Article 17, then, subject to any rights granted to a Recognized Mortgagee under this Lease, Landlord may, but shall not be obligated to, discharge such lien of record by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lien or and to pay the amount of the judgment in favor of the lien or with interest, costs and allowances.

Section 22.2 Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any amounts paid by Landlord pursuant to Section 22.1 hereof, including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed by Tenant within fifteen (15) days of Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article 22 shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including reasonable attorneys' fees and disbursements.

ARTICLE 23
PERFORMANCE AND COMMITMENTS

Section 23.1 Use and Operating Requirements. Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments, and otherwise in accordance with this Section 23.1, and for no other use or

purpose, is of paramount importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article 23 shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project, including as follows:

(a) Tenant shall (i) continuously, on a daily basis throughout the Term, use the Premises (and cause the Premises to be used) primarily for the conduct of retail business within the Retail Portion of the Project, the operation of the Hotel within the Hotel Portion of the Project, and the provision of banquet or catering services within the Banquet Facility Portion, each as more fully described in the Project Commitments, (ii) provide and operate, or cause to be operated, the Required Parking in accordance with Section 23.3 (the uses under this clause (a) above, collectively, the "Required Uses").

(b) So long as the provisions of Section 23.1(a) above are complied with, the balance of the Retail Portion of the Premises not used for the conduct of retail business may be used for retail food services purposes (including restaurants and cafes) complementary to the Required Uses so long as the same is in compliance with Requirements and this Lease (the uses under this clause (b), collectively, the "Permitted Ancillary Uses").

(c) Tenant shall, and shall cause, the Retail Portion of the Premises (including all portions of the Premises covered by a Sublease), to be operated and open for business every day of each Lease Year during the Term, starting at no later than ten (10) a.m. and continuing until at least nine (9) p.m. during each such day (the "Required Hours").

(d) Tenant shall comply with the HireNYC Program annexed as Exhibit N (HireNYC Program) to this Lease.

(e) Tenant shall not use or occupy the Premises, and shall not permit the Premises or any part thereof to be used or occupied for any purpose other than Required Uses and Permitted Ancillary Uses, without (in any such instance) the prior written consent of Landlord in its sole discretion. Without limiting the generality of the preceding sentence, Tenant shall not use or permit any portion of the Premises to be used (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, (iii) in such manner as may make void or voidable any insurance then in force with respect to the Premises, (iv) for any residential use, or (v) for any of the Prohibited Uses, and Tenant shall make good faith efforts to refrain from engaging in any unethical or disreputable method of business operation and shall make good faith efforts to cause other Persons on the Premises (including Subtenants) to refrain from using such methods of business operation. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises in violation of this Section 23.1, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 23.1 or Article 16 hereof. The provisions of this Section 23.1 shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

(f) Tenant shall cooperate with the City in connection with the Project and with the public facilities and uses surrounding the Premises (including, without limitation, the Ferry Terminal, the ballpark and the railroad right-of-way adjacent to the Premises), by among other things (i) cooperating with, and avoiding interference with, the nearby operations of DOT, (ii) complying with the New York City Police Department's counterterrorism policies, (iii) allowing for the use, from time to time, of the railroad right-of-way adjacent to the Premises and cooperating with the Metropolitan Transportation Authority or any other relevant agency in connection therewith, (iv) avoid attaching any structures to the Ferry Terminal or its vehicle ramps except as provided in the Approved Plans and Specifications and as required (in the sole determination of the Lease Administrator and DOT should any connections be desired to be made to DOT owned structures or facilities) to fulfill the "Development Goals" (as set forth in the RFEI), (v) ensuring free and unfettered access through the Premises to the nearby DOT facilities, including as provided in applicable Site Easements, (vi) anticipating, in the development of the Plans and Specifications and other planning related to the Project, that DOT conducts ongoing operations, including ferry operations and construction work at the current nearby vehicle ramp and other future intermittent construction work and that such ferry operations and construction work will produce noise, (vii) complying with the Ballpark Easement by, among other things, permitting pedestrian and vehicular ingress and egress in the easement area; (viii) diligently, continuously and in good faith cooperating with Landlord, Lease Administrator and the Ballpark Tenant to finalize an amendment to the Ballpark Easement promptly following the Effective Date pursuant to Paragraph 3(c) of the Ballpark Lease 4th Amendment. With respect to items (i), (iii), (v) and (vi) above, Landlord shall make reasonable efforts to cause Adjacent Property Owners to also cooperate with Tenant in connection with Tenant's performance of such obligations.

Section 23.2 Project Report; Aqua Swirl Reporting.

(a) Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Lease Administrator may reasonably request from time to time (but not more than twice during any twelve month period) upon not less than sixty (60) days prior written notice, Tenant shall deliver a written report to Lease Administrator (the "Project Report") setting forth in narrative form a status report on the Project, and the manner in which Tenant is complying with the Project Commitments and the Approved ULURP Application, which written report shall be in a form and contain such information as shall be reasonably satisfactory to Landlord. The Project Report shall, among other things, contain Tenant's certification that (i) the Premises and that all applicable Phases of the development of the Project are in compliance with the Project Commitments and the Approved ULURP Application, (ii) the Premises are in compliance with the Operating Commitments, (iii) in its reasonable and good faith judgment, Tenant anticipates that it will be able to comply timely with any Project Commitments and/or Operating Commitments to be performed in the upcoming Lease Year as set forth in the Project Commitments, including the commencement or completion of any Phase of development scheduled to be commenced or completed in such upcoming Lease Year. In the event that Tenant shall be unable to provide the required certification, the Project Report shall identify any areas of non-compliance with specificity, and explain the reasons for such non-compliance (a "Non-Compliance Notice"). Landlord shall endeavor to review each Project Report and submit any questions thereto or request any additional or supporting

information that it requires within thirty (30) days following Landlord's receipt of such Project Report.

(b) With respect to the Aqua Swirl, Tenant shall make available to DOT all reports and other information required under applicable Requirements and as required in accordance with the terms of the FTA grant to DOT pursuant to which Federal funds were made available to finance the original Aqua Swirl.

Section 23.3 Parking.

(a) Tenant acknowledges that prior to the Effective Date Tenant has received a true and complete copy of the Ballpark Lease and has fully reviewed the provisions in the Ballpark Lease that are relevant to the Parking Garage to be built as part of the Project.

(b) During the Term, Tenant shall cause the Required Parking to be open to the general public twenty-four (24) hours per day for each day during the Term, shall ensure that an adequate number of parking attendants employed by the Parking Operator are present to operate the Required Parking, and that there is appropriate lighting and security in and around the Required Parking.

(c) After the Substantial Completion Date of the Phase 2 Development Tenant shall make available, on the days of each Ballpark Event, for use by attendees at such Ballpark Event, no less than Three- Hundred Eighty (380) parking spaces on the Premises, for a time period commencing two (2) hours before and ending one (1) hour after such Ballpark Event, at parking rates established from time to time by the tenant under the Ballpark Lease (including the right to cause Tenant to issue free parking passes during such periods) ("Ballpark-Controlled Parking").

(d) No later than sixty (60) days prior to the Substantial Completion Date of the Phase 1 Development, Tenant shall enter into the Parking Management Agreement with the Parking Operator (whether or not a Recognized Sublease of the Parking Garage has been entered into) and shall provide a copy of such fully executed Parking Management Agreement to Landlord.

(e) Except as otherwise provided in this Lease, in connection with the operation and management of the Parking Areas, following the Effective Date Tenant shall perform or cause the Parking Operator to perform the services and undertake the obligations (the "Parking Management Services") as set forth in Part A of Exhibit Q (Parking Management Services; Form of Parking Rent Statement).

Section 23.4 Other Commitments

(a) Commuter Parking: Tenant will operate (or cause the Parking Operator to operate) (i) four (4) temporary off-Premises parking lots with an aggregate total of at least Seven Hundred Eighty-Six (786) parking spaces during the construction of the Phase 1 Development and the Phase 2 Development until such time as temporary replacement parking

spaces are available on the North Site Redevelopment (as defined in the Ballpark Lease 4th Amendment attached hereto as part of the Ballpark Lease Amendment Documents) or parking spaces on the Premises may lawfully be made available to the public, and (ii) upon completion of construction of such North Site Redevelopment and confirmation of such completion by the City, pursuant to Section 11.01(d) of the Ballpark Lease, to the extent the use of any parking lots located on the Premises as of the Effective Date has been or continues to be suspended or discontinued, Tenant will operate (or cause the Parking Operator to operate) replacement parking spaces which are within reasonable walking distance of the stadium immediately adjacent to the Premises unless otherwise agreed in writing by Landlord and the Ballpark Tenant. With respect to such off-Premises parking lots, Tenant shall operate free ADA-accessible shuttle bus service, which will run on a continuous loop during peak commuter hours between such temporary off-Premises parking lots and the Ferry Terminal during the duration of such construction or until such replacement parking spaces within a reasonable walking distance of the stadium immediately adjacent to the Premises are made available. Tenant will to hire a unionized contractor to operate such shuttle bus services. Tenant shall cause the timing of such shuttle bus service to be coordinated with Ferry boat arrivals and departures from the Ferry Terminal.

Tenant shall provide fair parking rates for commuters using Parking Garage or any portion of the Required Parking. Tenant will cap commuter parking rates for no less than Seven Hundred, Eighty-Six (786) parking spaces at Eight dollars ($8) per day until the earlier to occur of (1) the Substantial Completion of the Phase 1 Development and the Phase 2 Development or the third (3rd) anniversary of the Effective Date. After such period, Tenant shall (i) cap such commuter parking rates at no more than Nine dollars and fifty cents ($9.50) per day for the next five (5) years with limited annual increases at no more than fifty cents ($0.50) in any one year and (ii) thereafter Tenant will provide written notification to the local councilmember, Community Board 1, and the Deputy Mayor for Economic Development no less than Forty-Five (45) days before any change to the commuter parking rate, with a final approval by the Deputy Mayor for Economic Development for any increases.

(b) Community Association Advisory Board: Tenant will work with a Community Association Advisory Board. Board meetings would commence within the first three months of the start of project construction and continue for the duration of construction and one year after operation commences. The Board will be comprised of representatives from the Councilmember, Borough President, Community Board 1, and other community organizations, as determined by the Councilmember. Tenant will designate, from its general contractor/construction manager, an individual to act as a liaison to the Board ("Construction Liaisons"). This designation shall occur no later than 30 days prior to the commencement of any construction on the Premises. Upon request of the Board, the Construction Liaisons shall address, on a regular basis, the questions and concerns of the Board about construction related issues. The Construction Liaisons and the Tenant shall, promptly and in good faith, work with the Board and others, if necessary, to address such questions and concerns, as appropriate.

(c) Traffic Mitigation: Tenant shall undertake at its expense the actions set forth in the Project Commitments identified therein under the heading "Traffic Mitigation"

(d) HireNYC Program: The Tenant commits to adhere to the goals set forth herein pertaining to the HireNYC Program set forth in Exhibit N (HireNYC Program) to this Lease (which shall mean to include any replacement program of similar character and with similar goals) to make good faith efforts to create meaningful opportunities for low- income persons in addition to potential for later advancement. The Tenant will provide progress reports on the HireNYC Program upon the local Councilmember's request. The hiring and workforce development goals include the goals identified in Exhibit N or, at the Tenant's discretion, higher goals (collectively, the "Goals"); provided, that in no event shall the Tenant or any of their tenants be subject to any liability, loss, claim, damage or expense for failure to achieve the Goals.

Tenant commits to working with the West Brighton Community Local Development Corporation as a community-based organization to help implement the Goals. NYCEDC will provide technical assistance including NYCEDC staff resources to West Brighton Community Local Development Corporation in their support of the HireNYC Program.

(e) M/WBE Contractors/Subcontractors: Tenant will strive to hire no less than 25% Minority, Women and Local Business participation by contractors and subcontractors. Towards this end, Tenant will consider, in choosing a general contractor or construction manager ("GC/CM") for the Project, the GC/CM's prior qualifications and experience in working with M/WBE firms. All M/WBE requirements will be monitored by the City.

(f) Wages: Tenant agrees that in constructing the Project it shall use Building and Construction Trades Council of Greater New York union labor pursuant to a PLA for the construction of the Phase 1 Development and Phase 2 Development. Tenant has entered into an agreement with the New York Hotel & Motel Trades Council, AFL-CIO as well as with 32BJ/SEIU. Tenant shall hire a unionized contractor for shuttle bus services.

ARTICLE 24
EVENTS OF DEFAULT, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant fails to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if (i) Tenant fails to Commence any Phase of the Initial Construction Work on or before the applicable Scheduled Commencement Date for such Phase (subject to Unavoidable Delays); and (ii) in connection with all such failures, including failures to Commence other Phases of the Initial Construction Work on or before the Scheduled Commencement Date applicable to such other Phase, together with failures (if any) described in

mortgage on Landlord's interest in the Premises. Landlord agrees to include in such mortgage a subordination clause reasonably satisfactory to Tenant and to the Recognized Mortgagee most senior in lien in order to accomplish such subordination. Such mortgage shall also include a waiver and release by the mortgagee of any claims to any insurance proceeds or condemnation awards properly applicable to a Condemnation Restoration or a Casualty Restoration. If the mortgagee refuses to include such provisions, Landlord shall not enter into the mortgage and to do so shall constitute a material default by Landlord under the terms of this Master Lease. For the purposes of this provision, it is understood and agreed that the lien of any such mortgage shall be subordinate to the lien of this Master Lease and the lien of any Severance Lease, and to Tenant's interest in this Master Lease and Tenant's leasehold estate, any Severance Tenant's interest in its Severance Lease and the Severance Tenant's leasehold estate thereunder, or to any new lease granted pursuant to Section 11.4, notwithstanding that as a technical legal matter the leasehold estate created pursuant to this Master Lease may have terminated prior to the execution, delivery and recordation of a memorandum of such new lease. Any such mortgagee shall, upon foreclosure under such mortgage, be entitled to succeed only to the interest of Landlord.

ARTICLE 12
USE OF PREMISES

Section 12.1 Permitted Use. Tenant shall use and occupy the Premises, or cause the Premises to be used and occupied, as provided in this Master Lease for the sole purpose of constructing and operating a mixed-use project described in the Project Plan (the "Permitted Use"). In furtherance of, and not in limitation of, the foregoing, Tenant shall use and operate the Premises continuously and without interruption in accordance with the Project Plan. Tenant shall not use the Premises, or permit the Premises to be used, for any purpose other than the Permitted Use, except with the prior written approval of Landlord, to be given at Landlord's sole and absolute discretion.

Section 12.2 Performance of the Project.

(a) Commencement of Each Phase.

(1) The Project will be developed sequentially. The Commencement of Construction with regard to Phase 1 is to occur as and when provided in the Phase 1 Severance Lease, subject to Unavoidable Delays and to the provisions of Section 12.3 below. The Commencement of Construction with regard to Phase 3 is to occur not later than eighteen (18) months after the Commencement of Construction of Phase 1, subject to Unavoidable Delays and to the provisions of Section 12.3 below. Subject to Tenant's right to change the sequencing of the Project as set forth in Section 12.4 below, the Commencement of Construction with regard to Phase 2 shall occur after the issuance of a temporary certificate (or certificates) of occupancy or completion (which, with respect to a commercial space, may be the equivalent of a "core and shell" temporary certificate of occupancy) (as the case may be, with respect to any Phase, collectively a "Phase TCO") covering all of the Buildings required to be constructed as part of, or in conjunction with, Phases 1 and 3. The development of each Phase will be

governed by a separate Severance Lease therefor, having a term of 49 years (subject to the provisions in Section 12.2(a)(5) below regarding Phase 2).

(2) Not later than five (5) Business Days after the issuance of Phase TCOs with respect to Phase 1 and Phase 3 (whichever shall be the later to occur), Tenant shall give Landlord written notice thereof (a "Phase Completion Notice"), which Phase Completion Notice shall be accompanied by a copy of the applicable Phase TCO(s) and the Architect's certification required to be delivered under Section 13.5, along with both (i) Tenant's written request for a Severance Lease for Phase 2 and (ii) Tenant's certification that completed Background Qualification Forms then required for Landlord's due diligence procedures for Tenant or the designated Severance Tenant for Phase 2, as the case may be, were previously delivered to Landlord no more than 120 days and no less than 60 days prior to delivery of said Phase Completion Notice. Provided no Event of Default exists under this Master Lease, within ten (10) Business Days after Landlord's receipt of a Phase Completion Notice for Phase 1 or 3 (whichever shall be the later to be received by Landlord) and all required accompanying materials when and as provided for above, Landlord shall deliver to Tenant execution counterparts of the Phase 2 Severance Lease. Within five (5) Business Days after Tenant's receipt of execution counterparts of the Phase 2 Severance Lease from Landlord, Tenant or its designated Phase 2 Severance Tenant shall sign all of such execution counterparts, and Tenant shall return them to Landlord along with the same number of signed and notarized counterparts of a memorandum of lease with respect thereto in the same form as the memorandum of lease recorded in connection with the Phase 1 Severance Lease. Tenant's failure to return all of such signed execution counterparts to Landlord within said five (5) Business Day period shall be deemed a forfeiture of the right to enter into the Phase 2 Severance Lease. Within ten (10) Business Days after Landlord's receipt of signed execution counterparts of the Phase 2 Severance Lease and memorandum of lease from Tenant, Landlord shall countersign all of such execution counterparts, have its signature of the Memorandum of Lease notarized and return not less than two (2) fully executed counterparts to Tenant; ***provided***, ***however***, that Landlord shall not be obligated to return fully executed counterparts if the Phase 2 Severance Tenant is an Unqualified Person. In no event shall Tenant Commence the Construction Work with respect to Phase 2 until Tenant receives a fully-executed Severance Lease for such Phase.

(3) Tenant acknowledges that the requirements to Commence the Construction Work with regard to a Phase by the Construction Commencement Date therefor and to Substantially Complete the Construction of the Building(s) in a Phase by the Scheduled Completion Date therefor, as provided and in accordance with the Project Plan, are important to Landlord, and for such reason Landlord and Tenant have provided for the Extension Options described in Section 12.3 for construction of Buildings for the Project. Tenant further acknowledges and agrees that Tenant's failure to comply with the requirements of the Project Plan will cause loss and damage to Landlord, the precise extent of which is difficult to ascertain in monetary terms. For this reason, and in such

event, in addition to any other remedies available to Landlord under this Master Lease, Landlord and Tenant have provided for the adjustment to Base Rent payable pursuant to the various Severance Leases to the amounts as set forth in Exhibit K ("Adjusted Base Rent"), and Landlord shall also be entitled to avail itself of any remedies under this Master Lease and any existing Severance Leases regardless of Landlord's receipt of the Adjusted Base Rent, if a Severance Tenant fails to Commence the Construction Work with regard to a Phase by the Construction Commencement Date therefor or to Substantially Complete the Construction of the Building(s) in a Phase by the Scheduled Completion Date therefor, subject to extension as provided in Section 12.3.

(4) Notwithstanding anything in this Master Lease which may be provided or be construed to the contrary (including Unavoidable Delay and Extension Options provisions), Tenant acknowledges that the development of Phase 1 is crucial to Landlord, and that the Phase 1 Severance Tenant's failure to Commence the Construction Work on the Building(s) required to be constructed as part of, or in conjunction with, Phase 1 within two (2) years following the CTP Date (referred to herein as a "Project Commencement Default"), provided, however, said failure will not be a Project Commencement Default if the Phase 1 Severance Tenant has filed for all permits and approvals required for Phase 1 and is awaiting final determination of such permits and approvals from the applicable Governmental Authorities, will cause loss and damage to Landlord the precise extent of which is difficult to ascertain in monetary terms; and for this reason and in such event, Tenant waives any right to prior notice and/or a cure period for a Project Commencement Default. Upon the occurrence of a Project Commencement Default, Tenant agrees that Landlord shall be thereby entitled to (x) exercise its rights to terminate this Master Lease and the Phase 1 Severance Lease, and (y) in its sole discretion, elect to solicit and negotiate offers for the Premises or any portion thereof. Tenant covenants, if Landlord exercises its right to terminate this Master Lease and the Phase 1 Severance Lease upon the occurrence of a Project Commencement Default as provided herein, to execute and deliver in proper form for recordation an acknowledgement of the termination of this Master Lease and the Phase 1 Severance Lease.

(5) Landlord and Tenant acknowledge that Tenant expects to apply for Historic Tax Credits in Phase 2. In the event the IRS issues a private letter ruling that identifies the forty-nine (49) year term of the Phase 2 Severance Lease as a material factor in its determination that Tenant has failed to evidence an ownership interest in the Premises for the purpose of obtaining Historic Tax Credits, and Tenant has otherwise satisfied (or reasonably demonstrates to Landlord that it is capable of satisfying) all other conditions and requirements needed to obtain the Historic Tax Credits, Landlord shall extend the term of Phase 2 Severance Lease to the minimum extent necessary to comply with the IRS's requirements or as the parties shall agree respecting the Phase 2 Parcel.

(6) If, for a continuous period greater than two (2) years, any Governmental Authority denies a Severance Tenant access to an entire Parcel

following the Phase Commencement Date for such Phase, due to no fault, action or omission of such Severance Tenant, then either Landlord or Tenant may terminate the Project and this Master Lease and Severance Lease for the applicable Phase by giving written notice to the other party hereto. Upon such termination, Tenant may elect to purchase, as provided in Section 12.6, any Substantially Completed Phase(s) for a purchase price equal to the fair market value of the land upon which such Phase(s) are located, determined by an appraiser selected and paid by Tenant and reasonably approved by Landlord and the First Recognized Mortgagee.

(7) Tenant, the applicable Severance Tenant, or Triangle shall give written notice to Landlord of the Commencement of Construction for each Phase, which notice shall be given not less than five (5) days prior to the Construction Commencement Date for such Phase. Unless and until such notice shall be given with regard to a Phase, the Commencement of Construction of such Phase shall not be considered to have occurred. The Lease Administrator shall use the date set forth in such notice with respect to a Phase to determine the Scheduled Completion Date for such Phase. For so long as the Lease Administrator is NYCEDC, each such notice shall be given, in the manner set forth in Article 25 below, to: (i) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Real Estate Transaction Services; (ii) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Accounting Division; and (iii) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Asset Management Division.

(b) City Funds. City capital budget funds remain appropriated on the date hereof to fund eligible costs of the Project in the amount of $6,200,000.00 (the "City Funds") in connection with the Parking Garage. The following provisions shall apply with regard thereto:

(1) the Lease Administrator and the Phase 1 Severance Tenant have agreed upon the form of an agreement respecting such City Funds (the "Funding Agreement"), pursuant to which the Lease Administrator shall provide the City Funds it obtains from the City to the Phase 1 Severance Tenant for the purpose of funding eligible costs respecting certain capital improvements in connection with the development of the Parking Garage. The form of the Funding Agreement is attached hereto as Exhibit L. Notwithstanding the foregoing, or anything to the contrary in this Master Lease, the Phase 1 Severance Lease, or otherwise, Landlord and Tenant acknowledge that OMB is not acting on behalf of (a) the City in its capacity as Landlord and (b) the Lease Administrator. Landlord and Tenant further acknowledge that OMB, in its sole discretion, will approve or deny the Funding Agreement, and that any terms, conditions, or restrictions, as required by the Funding Agreement, are subject to any modification by OMB in its sole discretion.

(2) Landlord, Tenant and the Lease Administrator shall each diligently take such actions and provide such information within its control as is required regarding the Funding Agreement, including providing all requested information, and resubmitting any documents or information with changes reasonably requested by the Lease Administrator, and as is required by OMB for its review and issuance of the Certificate to Proceed. The Phase 1 Severance Tenant shall agree in its Severance Lease to do the same, as well as to execute and deliver the Funding Agreement with Landlord as promptly as practicable after receipt of the necessary approvals from OMB and all other requirements under the Funding Agreement have been satisfied.

The parties acknowledge and agree that, but for the opportunity to obtain the City Funds as described above, as well as the parties' anticipation that OMB will require the Phase 1 Severance Tenant to agree to the provisions set forth in Section 12.1(b) of the Phase 1 Severance Lease, as well as in Section 12.1 of that certain form of amended and restated lease attached as Exhibit N-4 hereto, as a condition to obtaining the City Funds, Landlord would not have required Tenant to agree to such provisions, and Tenant would not have agreed to the same. In the event that OMB agrees to provide the City Funds upon less restrictive operating restrictions and conditions than those set forth in Section 12.1(b) of the Phase 1 Severance Lease and Section 12.1 of Exhibit N-4 hereto, Landlord and Tenant (at Tenant's sole cost and expense) shall, as promptly as is practicable after the written request of either of them, proceed diligently, reasonably and in good faith to agree upon, and thereafter promptly execute, acknowledge and exchange, amendments to this Master Lease and the Phase 1 Severance Lease to render the said Sections 12.1(b) and 12.1 consistent with the less restrictive requirements of OMB.

Section 12.3 Extension of Development Schedule.

(a) The development and construction schedule for the Project is set forth in the Project Plan (subject to the provisions of Section 12.5 below), and all Buildings for the Project, as set forth in the Project Plan, shall be Substantially Completed in accordance with the respective Severance Leases by the Scheduled Completion Date for Phase 2 as of the date hereof, subject to Unavoidable Delays. Notwithstanding the foregoing, Tenant may purchase up to an aggregate of twenty-four (24) one-month extension periods for the Project to extend the Construction Commencement Date or Scheduled Completion Date for a Phase, provided that (x) no Event of Default exists under this Master Lease, (y) Tenant requests such Extension Option in writing no later than five (5) days prior to the first day of such one-month extension and (z) Tenant shall pay on or before the day upon which such request is made a non-refundable extension fee for the applicable amount in accordance with schedules 1 & 2, respectively, on Exhibit M (each, an "Extension Option" and collectively, "Extension Options"). Notwithstanding the foregoing sentence, Tenant shall not be required to purchase any such Extension Option to extend a Construction Commencement Date or a Scheduled Completion Date in the event of an Unavoidable Delay. As an example of the operation of the foregoing provisions, absent Unavoidable Delay, the Construction Commencement Date for Phase 1 was January 31, 2015, and so notice and payment to extend the Construction Commencement Date for Phase 1 by one month, to February 28, 2015, was due on or

before January 26, 2015. Each Extension Option shall be for a period of one month, and no partial month extension, or pro-rated extension fee, will be permitted. The Parties acknowledge and agree that nine (9) Extension Options have been purchased heretofore pursuant to the provisions of Section 12.3 of the Original Lease, and therefore that (i) the number of Extension Options remaining available for exercise by Tenant under this Master Lease from and after the Lease Date shall be deemed to be reduced to fifteen (15) Extension Options and (ii) the amounts of the extension fees for such remaining Extension Options shall be determined, pursuant to the aforesaid schedules 1 & 2, giving full effect to the purchases of Extension Options that occurred prior to the Lease Date pursuant to Section 12.3 of the Original Lease.

(b) The fees to purchase said Extension Options are cumulative for the entire Project, but independent of each other. By way of example, if Tenant purchases an Extension Option to extend the Construction Commencement Date for Phase 1 by 3 months, the purchase of an Extension Option in Phase 3 would start with "month 4" on the appropriate schedule on Exhibit M. However, if Tenant also purchases an Extension Option to extend the Scheduled Completion Date for Phase 1, it would start with the fee amount in "month 1" on Schedule 2 of Exhibit M.

(c) For so long as the Lease Administrator is NYCEDC, each request for extension pursuant to Section 12.3(a)(y) above shall be given, in the manner set forth in Article 25 below, to: (i) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Real Estate Transaction Services; (ii) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Accounting Division; and (iii) New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Asset Management Division

(d) The provisions of this Section 12.3 shall survive the expiration of this Master Lease.

Section 12.4 Revision of Lot Lines; Occupancy of the Apartments Unit. Tenant shall not have the right to revise the lot lines depicted on Exhibit A-2 without Landlord's prior written consent. Further, in no event shall the Apartments Unit be occupied by residential or other tenants unless and until the below-grade parking on the Phase 1 Parking Overlap shall be Substantially Completed, opened and operating, which portion shall be sufficient to satisfy, when taken together with the parking in the Parking Unit, all zoning requirements concerning the lawful occupancy of Phases 1 and 3, without waiver.

Section 12.5 Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied, for any purpose other than a Permitted Use. Without limiting the generality of the preceding sentence, Tenant shall not use the Premises, or either permit or suffer the Premises to be used, for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 12.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use

or occupation in violation of Section 12.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 12.1 or Article 16 hereof. The provisions of this Section 12.5 shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

Section 12.6 Purchase Options.

(a) Purchase Option One. Subject in all respects to the provisions of Section 12.6(c) below:

(1) Those Severance Tenants that are Permitted Triangle Entities shall have the option ("Purchase Option One"), subject to and in accordance with the terms set forth in this Section 12.6(a), and provided that no Event of Default then exists under the applicable Severance Lease(s) beyond any applicable cure periods, to purchase Landlord's fee simple title in and to the Retail Unit, the Apartments Unit and the Phase 2 Remainder Unit(s) (collectively, the Purchase Option One Premises"), which option will lapse if it is not exercised during the Purchase Option One Period. If such Severance Tenants desire to exercise Purchase Option One, they shall together give Landlord written notice (the "Purchase Option One Notice") of their exercise of the option for the respective Purchase Option One Premises that are then under lease to them, which Purchase Option One Notice will not be effective unless it is given during the Purchase Option One Period. If any Severance Tenant having the right to purchase fails to join in such Purchase Option One Notice, then such Purchase Option One Notice shall be ineffectual to exercise Purchase Option One. If Purchase Option One shall lapse, Tenant shall execute and deliver to Landlord, promptly after Landlord's written request to Tenant therefor, an acknowledgement of the termination of Purchase Option One in proper form for recordation. If there shall be more than one Severance Lease in effect, and if there are multiple Severance Tenants under the Severance Leases, then each Severance Tenant shall have the option as part of Purchase Option One, under this Section 12.6(a), to purchase the Purchase Option One Premises as to which such Severance Tenant is the tenant under a Severance Lease, provided, however, that such sales close simultaneously.

(2) The purchase and sale of Landlord's fee titles under this Section 12.6(a) shall be on the terms and conditions of the purchase agreements (the "Purchase Option One Agreements") attached hereto as Exhibit N-1 (applies to the Retail Unit only), Exhibit N-2 (applies to the Phase 2 Remainder Unit(s) only) and Exhibit N-3 (applies to the Apartments Unit only). The closing for the purchase shall take place on a date mutually agreed upon by Landlord and all of the Severance Tenants, which in no event shall occur earlier than the Phase 2 Condominium Conversion Date nor later than ninety (90) days after the date upon which the Purchase Option One Notice is given to Landlord (provided, however, that, if Tenant shall have proceeded diligently and in good faith to create the Phase 2 Condominium prior to the expiration of such ninety (90) day period, but

the Phase 2 Condominium Conversion Date shall not occur prior to such outside date, then the outside date for the closing for such purchase shall be extended until the day that is thirty (30) days after the Phase 2 Condominium Conversion Date). Each Severance Tenant shall deliver an executed counterpart of the applicable Purchase Agreement, together with the completed Background Qualification Forms then required, to Landlord within thirty (30) days after the Purchase Option One Notice is given to Landlord. If a Severance Tenant shall fail or neglect to make such submission within such thirty (30) day period, or if such submission shall be made but shall be unsatisfactory or incomplete (including, without limitation, with regard to such Background Qualification Forms), Landlord shall give a written notice to all Severance Tenants specifying what documents and/or information is missing, unsatisfactory, or incomplete. Such Severance Tenant shall then have fifteen (15) days from the date of Landlord's notice to supplement or correct its prior submission, and such Severance Tenant's failure to so do shall result in all Severance Tenants' forfeiture of Purchase Option One.

(3) The Purchase Option One Price for the Purchase Option One Premises shall be Five Million One Hundred Thousand ($5,100,000) Dollars, subject to any applicable credits thereto in accordance with Section 3.3 (which credits shall be allocated, if there are more than one purchasing Severance Tenants, as such Severance Tenants shall determine). The Purchase Option One Price with respect to separate purchases by more than one Severance Tenant shall, in each case, be the portion of such Purchase Option One Price allocated to the Parcel(s) being purchased, which allocation shall be 17.8524% for the Retail Unit, 58.9421% for the Phase 2 Remainder Unit(s) and 23.2055% for the Apartments Unit, subject to any applicable credits thereto in accordance with Section 3.3. The base rent under each of the Severance Leases for the Purchase One Option Premises shall be apportioned as of the closing date, but there shall be no other closing apportionments of income or expenses with regard to the Purchase Option One Premises.

(4) At the closing of title to the Purchase Option One Premises, the Phase 2 Severance Lease and the Phase 3 Severance Lease shall be terminated as of the closing date. Additionally, the City, as landlord, and the Phase 1 Severance Tenant immediately prior to the termination of the Phase 1 Severance Lease (such tenant, along with its successors and assigns as the tenant under the Second A/R Phase 1 Lease, is called the "Second A/R Phase 1 Tenant"), as tenant, shall execute and deliver a Second Amended and Restated Severance Lease (Phase 1) (the "Second A/R Phase 1 Lease"), which will amend and restate the Phase 1 Severance Lease in its entirety, terminate the Phase 1 Severance Lease with respect to the Retail Unit only, confirm that the premises demised under the Phase 1 Severance Lease (as so amended) will consist exclusively of the Parking Unit and the Parking Overlap Unit and revise the terms, covenants and conditions governing such leasing, which Second A/R Phase 1 Lease shall be in the form annexed hereto as Exhibit N-4.

(b) Purchase Option Two. Subject in all respects to the provisions of Section 12.6(c) below:

(1) The then Second A/R Phase 1 Tenant, provided that such tenant shall be a Permitted Triangle Entity, shall have the option ("Purchase Option Two"), subject to and in accordance with the terms set forth in this Section 12.6(b), and provided that no Event of Default then exists under the Second A/R Phase 1 Lease beyond any applicable cure period, to purchase Landlord's fee simple titles in and to the Parking Unit and the Parking Overlap Unit, which option will lapse if it is not exercised during the Purchase Option Two Period. If such tenant desires to exercise such option, it shall give Landlord written notice (the "Purchase Option Two Notice") of its exercise of the option for the Parking Unit and the Parking Overlap Unit, which Purchase Option Two Notice will not be effective unless it is given during the Purchase Option Two Period. If the purchase option shall lapse, Tenant shall execute and deliver to Landlord, promptly after Landlord's written request to Tenant therefor, an acknowledgement of the termination of such purchase option in proper form for recordation.

(2) The purchase and sale of Landlord's fee titles in and to the Parking Unit and the Parking Overlap Unit shall be on the terms and conditions of the purchase agreement (the "Purchase Option Two Agreement") attached hereto as Exhibit N-5. The closing for the purchase shall take place on a date mutually agreed upon by Landlord and the then Second A/R Phase 1 Tenant, which in no event shall occur later than ninety (90) days after the date upon which the Purchase Option Two Notice is given to Landlord. Such tenant shall deliver an executed counterpart of the Purchase Option Two Agreement, together with the completed Background Qualification Forms then required, to Landlord within thirty (30) days after the Purchase Option Two Notice is given to Landlord. If such tenant shall fail or neglect to make such submission within such thirty (30) day period, or if such submission shall be made but shall be unsatisfactory or incomplete (including, without limitation, with regard to such Background Qualification Forms), Landlord shall give a written notice to such tenant specifying what documents and/or information is missing, unsatisfactory, or incomplete. Such tenant shall then have fifteen (15) days from the date of Landlord's notice to supplement or correct its prior submission, and such tenant's failure to so do shall result in its forfeiture of said purchase option.

(3) The purchase price for the Parking Unit and the Parking Overlap Unit shall be Ten ($10.00) Dollars. The base rent under the Second A/R Phase 1 Lease shall be apportioned as of the closing date, but there shall be no other closing apportionments of income or expenses with regard to the Parking Unit or the Parking Overlap Unit.

(4) At the closing of title to the Parking Unit and the Parking Overlap Unit, the Second A/R Phase 1 Lease shall be terminated as of the closing date.

(c) Combination of Purchase Options. The Parties acknowledge and agree that the option to purchase Landlord's fee title in and to the Retail Unit, the Apartments Unit, the Phase 2 Remainder Unit(s), the Parking Unit and the Parking Overlap Unit has been split into Purchase Option One and Purchase Option Two in order to keep the operating restrictions set forth in Section 12.1 of the Second A/R Phase 1 Lease in force and effect for a period expiring on the first day of the Purchase Option Two Period. But for the opportunity to obtain the City Funds as described in Section 12.2(b) above, as well as the parties' anticipation that OMB will require the Severance Tenant to agree to split the purchase options a condition to obtaining the City Funds, there would be only one purchase option provided for in this Section 12.6, the Phase 1 Severance Lease would be terminated at such closing and the Phase 1 Severance Tenant would not be required to enter into the Second A/R Phase 1 Lease. Therefore, unless the City Funds shall be provided by Landlord to the Phase 1 Severance Tenant for the purpose of funding eligible costs respecting certain capital improvements in connection with the development of the Parking Garage, notwithstanding anything to the contrary provided in this Master Lease, this Section 12.6 shall be deemed to have been amended to:

(1) consolidate Purchase Option One and Purchase Option Two, so that (x) both of such purchase options shall be exercised by Tenant, if at all, by giving both the Purchase Option One Notice and the Purchase Option Two Notice to Landlord together, within the Purchase Option One Period;

(2) require Landlord and the Phase 1 Severance Tenant to execute and deliver the Purchase Option Two Agreement at the same time as their execution and delivery of the Purchase Option One Agreement for the Retail Unit pursuant to Section 12.6(a) above;

(3) provide that the closing of title under the Purchase Option Two Agreement shall occur at the same time as the closing of title under the Purchase Option One Agreement;

(4) no longer require that the Phase 2 Condominium be established prior to the closing of title under such purchase agreements and, if the Phase 2 Condominium is not established, provide that fee title to the entire Phase 2 (including, without limitation, the Phase 1 Parking Overlap) be conveyed to the Phase 2 Severance Tenant;

(5) provide that the Second A/R Phase 1 Lease shall not be executed or delivered by Landlord and the Phase 1 Severance Tenant, and shall be deemed to have been deleted as an exhibit to this Master Lease; and

(6) provide that the Phase 1 Severance Lease shall be terminated at the closing.

(d) Reservation of Excess Development Rights. Any floor area development rights with regard to the Project Premises that are in excess of one hundred twenty (120%) percent of those floor area development rights required for the Construction of

the Buildings pursuant to the Zoning Resolution (collectively, the "Excess Floor Area Development Rights") shall be reserved to, and shall continue to be owned by, Landlord. Promptly after the written request of Landlord, made at any time during the Term after the Plans and Specifications for all of the Buildings to be constructed on the Project Property have been approved by Landlord, Landlord and Tenant shall execute, acknowledge and exchange a Zoning Lot Development Agreement (the "ZLDA"), pursuant to which, among other things, Landlord shall reserve and retain as its own separate and specific asset the Excess Floor Area Development Rights, for use and/or disposition as Landlord sees fit. Promptly after the execution and delivery thereof, Tenant shall cause the ZLDA to be recorded, at Tenant's sole cost and expense, against the Project Property in the Real Property Records.

The provisions of this Section 12.6 shall survive delivery of the Severance Leases and the expiration or termination of this Master Lease.

Section 12.7 Right to Terminate a Severance Lease. If the conditions set forth in clauses (a)-(c) below have been met, the applicable Severance Tenant shall have the right to terminate any Severance Lease for a Parcel following Commencement of Construction with respect to such Phase, and Tenant shall have the right to terminate this Master Lease with respect to any future Phase(s) by giving written notice to such effect to Landlord: (a) a Governmental Authority denies such Severance Tenant access to the entire Parcel during the Construction of the Buildings for the applicable Phase for a continuous period greater than two (2) years after the Commencement of Construction for such Parcel, (b) such denial is due to no fault, action or omission of Tenant, such Severance Tenant, any other Severance Tenant, or their respective affiliates, contractors, or agents, and (c) Tenant or the applicable Severance Tenant shall have provided written notice to the Lease Administrator of such denial of access no later than ninety (90) days after it has first occurred.

ARTICLE 13
CONSTRUCTION WORK

Section 13.1 Construction of the Building(s).

(a) Commencement and Completion of Construction. With respect to each Phase, the applicable Severance Lease shall provide that the Severance Tenant thereunder shall (i) commence the Construction of the Building(s) required to be constructed as part of, or in conjunction with, such Phase (including, without limitation, with respect to Phase 3 only, all of the Common Elements underlying, enclosing, supporting, roofing, servicing, or otherwise intended to be constructed with regard to Phase 3 pursuant to the Approved Plans and Specifications) not later than the Construction Commencement Date for such Phase (subject to Unavoidable Delay), (ii) thereafter continue to prosecute the Construction of the Building(s) required to be constructed as part of, or in conjunction with, such Phase with diligence and continuity in accordance with a development and construction schedule approved by Landlord and Tenant, (iii) Substantially Complete the Building(s) required to be constructed as part of, or in conjunction with, such Phase on or before the Scheduled Completion Date for such Phase (subject to Unavoidable Delays), and (iv) diligently and in good faith seek a permanent certificate of occupancy for all

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 41.7 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 23
ADDITIONAL USE COVENANTS

Section 23.1 Use and Operating Requirements. Tenant shall comply with the following use and operating requirements:

(a) The Premises shall be used during the Term as provided in Section 12.1 hereof.

(b) For each Lease Year, Tenant shall, not later than thirty (30) days following the end of such Lease Year, certify that it complied with Sections 23.1(a), 23.1(b) and 23.1(c) for such Lease Year or the applicable portion thereof. If, at any time during the Term, Tenant shall be unable to use the Premises in full compliance with Sections 23.1(a), 23.1(b) and/or 23.1(c), Tenant shall promptly notify the Lease Administrator thereof.

(c) The provisions of the Maintenance Agreement.

Section 23.2 Coordination with DOT.

(a) Tenant acknowledges the existence of the Ferry Terminal, Ferry Maintenance Facility and the operations of the Staten Island Ferry Service (collectively the "Ferry") located in the vicinity of the Project Premises. Tenant acknowledges that the Ferry Terminal is a major transit hub, and that the Ferry Maintenance Facility is an industrial ship repair facility performing round-the-clock repair and maintenance of ferry boats and docks. Noises from the Ferry include, but are not limited to, regular ferry whistles, pile driving, maintenance noises and vehicular traffic. In addition to noise, Ferry operations produce engine exhaust, odors and vibrations.

(1) Tenant shall take reasonable precautions to keep any resident and users of the Premises from entering onto the Ferry Maintenance Facility, including without limitation, installing appropriate signage and fencing, and shall take such additional precautions as Landlord may reasonably require. Any security breach, threat to public safety or significant disruption to Ferry maintenance operations, construction projects or services shall, upon notice by DOT, be promptly remedied by Tenant to the satisfaction of the DOT.

(2) Tenant's activities shall not in any way interfere with the operations of the Ferry (including without limitation, provision of services,

security procedures and pedestrian and vehicular access, safety and flow); nor shall Tenant encroach upon any Ferry property. Should Tenant receive notification at any point that it or its activities or its tenants or the activities of its tenants are interfering with operations, services or facilities of the Ferry and/or encroaching upon the same, Tenant shall remedy such interference or encroachment immediately.

(3) Any interference or encroachment that may reasonably be understood as presenting a security risk, threat to public safety or significant disruption to Ferry maintenance operations, construction projects or services shall, upon notice, immediately be remedied by Tenant to the satisfaction of DOT or else shall be deemed grounds for default. Alternately, the City shall have the right to remedy such interference or encroachment to its satisfaction and at its own expense and seek full compensation for its expenses from Tenant; in such case, Tenant's failure to reimburse the City for its expenses within 30 days of invoice shall be considered grounds for default.

(b) Notwithstanding anything to the contrary in this Lease, the Master Lease, any Other Severance Lease, the Maintenance Agreement, or any other agreement with Landlord or the Lease Administrator in connection with the Project, Tenant shall obtain DOT's written consent to the plans and specifications for any construction hereunder that directly touches the Ferry (the "DOT Approval") by submitting drawings and/or plans and specifications for the Construction Work and a site plan of the Premises ("DOT Approval Plans"). Within ten (10) days of such submission, DOT shall either (A) issue the DOT Approval, or (B) notify Tenant in writing of any elements of such construction will interfere with the Ferry, in which case Tenant shall submit revised DOT Approval Plans which shall address such defects, and the DOT shall issue the DOT Approval within ten (10) days after receipt thereof, or the plans will be deemed approved.

(c) Tenant will defend, indemnify and hold harmless the Lease Administrator, the City, NYCEDC and NYCLDC from any and all claims and causes of action for personal injury, death, nuisance or damage to property asserted by any individual or other entity lawfully occupying any portion of the Premises arising from noise, fumes, or vibrations from the Ferry. The foregoing provision will only apply to the lawful, ordinary operation of the Ferry and to claims not arising out of the negligent or intentional wrongful conduct of the Ferry or DOT, its agents or assigns.

(d) Tenant hereby agrees to comply with the following guidelines:

(1) to maintain and repair its constructions, in accordance with the provisions below;

(2) to construct any building on the Land as a non-combustible construction (minimum Class C as defined in the 1968 Building Code of the City of New York), fully sprinklered with a hydraulically designed automatic sprinkler system, with (i) occupied portions of any such building having wet sprinklers and (ii) unheated portions (e.g., enclosed garage space) having a dry-pipe automatic

Any amounts paid by Landlord pursuant to Section 22.1 hereof, including all Out of Pocket Costs incurred by Landlord in connection therewith, shall be reimbursed by Tenant within fifteen (15) days of Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article XXII shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 41.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
PERFORMANCE AND COMMITMENTS

Section 23.1 Use and Operating Requirements. Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments, and otherwise in accordance with this Section 23.1, is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article XXIII shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project, including without limitation as follows:

(a) Tenant shall cause not less than 190,000 square feet of gross building area within the Building (the "Academic Use Minimum Area") to be used and operated solely for Academic Uses by a not-for-profit corporation exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3) or a limited liability company the sole member of which is a not-for-profit corporation exempt from Federal income taxes under Internal Revenue Code Section 501(c)(3) (the uses required under this clause (a), collectively, the "Academic Facility Required Uses").

(b) So long as the provisions of Section 23.1(b) above are complied with, the balance of the Premises may be used for any purpose so long as the same is in compliance with Requirements and this Lease (including, without limitation, Section 23.1(e) below) (the uses under this clause (b), collectively, the "Permitted Non-Academic Uses").

(c) Tenant shall at all times maintain Tenant's accreditation to operate the Academic Uses, all as set forth in the Project Commitments.

(d) Tenant (and any Subtenants that are University Affiliates or CUSP Affiliates) shall comply with the HireNYC Program annexed as Exhibit H to this Lease (it being understood that nothing in this Lease shall require any Subtenants that are not University Affiliates or CUSP Affiliates to comply with the HireNYC Program).

(e) Tenant shall not use or occupy the Premises, and shall not permit the Premises or any part thereof to be used or occupied for any purpose other than Academic Facility Required Uses and Permitted Non-Academic Uses, without (in any such instance) the prior written consent of Landlord in its sole discretion.

Without limiting the generality of the preceding sentence, Tenant shall not use or permit any portion of the Premises to be used (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 23.1 or Article XVI hereof or the certificate(s) of occupancy for the Premises, (iii) in such manner as may make void or voidable any insurance then in force with respect to the Premises or (iv) for any residential use. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises in violation of this Section 23.1, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 23.1 or Article XVI hereof. The provisions of this Section 23.1 shall not restrict Tenant's rights under Article XXXIV hereof to contest any Requirements.

Section 23.2 Project Report. Within sixty (60) days following the end of each Reporting Year during the Term, or at such other time as Landlord may reasonably request from time to time (but not more than twice during any twelve month period), Tenant shall deliver a written report to Landlord substantially in the form attached hereto as Exhibit M (the "Project Report") with respect to the status of the Project and the manner in which Tenant is complying with the Project Commitments, each as of the end of such Reporting Year (or, with respect to Project Reports requested by Landlord, as of the date of the request). If, at the time in question, a funding agreement with the City is in effect with respect to capital projects relating to the Project, Tenant shall deliver an additional copy of the Project Report to the City's Office of Management and Budget at and address directed by Landlord, at the same time as the same is delivered to Landlord. The Project Report shall, among other things, contain Tenant's certification as to whether, as of the applicable time, (i) Tenant is in compliance in all material respects with the terms of this Agreement, (ii) the Project is in compliance in all material respects with the applicable Project Commitments in effect at such time, and (iii) in its reasonable and good faith judgment, Tenant anticipates that in the upcoming Reporting Year it will be able to comply timely in all material respects with this Lease and all of the applicable Project Commitments to be performed in such Reporting Year. Tenant shall include in the Project Report a reasonably detailed report on the economic impact and the community benefits of the Project. In the event that Tenant shall be unable to provide all of the required certifications in the affirmative, the Project Report shall identify any areas of non-compliance with specificity, and explain the reasons for such non-compliance (the "Non-Compliance

Notice") and University, at its option pursuant to Section 23.3, shall submit to Landlord a proposed Recovery Plan pursuant to Section 23.3. Landlord shall endeavor to review each Project Report and submit any questions thereto or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Project Report.

Section 23.3 Failure to Comply with Development Commitments or Operating Commitments; Recovery Plan.

(a) Notwithstanding any provision of this Section 23.2 or Article XXIV, if (i) Tenant reasonably believes that any future Project Report would (absent a change in the Project Commitments) contain a Non-Compliance Notice, (ii) any Project Report shall contain any Non-Compliance Notice or (iii) Landlord or NYCEDC shall give Tenant a notice with respect to any default by University (without reference to cure periods) described in Section 24.1(e) or (h), then Tenant may, at its option, submit to NYCEDC within sixty (60) Business Days following the Project Report or such notice, as applicable, a written recovery plan (a "Recovery Plan"), which Recovery Plan shall set forth in detail Tenant's plan and commitment to restore compliance in a manner and within specified time periods described below or otherwise mutually and reasonably satisfactory to NYCEDC and Tenant. During the period after which Tenant has submitted a Recovery Plan and during which NYCEDC and Tenant are actively negotiating such Recovery Plan and, thereafter, upon NYCEDC's and Tenant's agreement on a Recovery Plan that is mutually and reasonably satisfactory to both NYCEDC and Tenant, as evidenced by NYCEDC's and Tenant's written approval of the Recovery Plan (the "Approved Recovery Plan"), the underlying non-compliance shall be deemed waived (and no Event of Default shall exist by reason thereof) but only if and for so long as Tenant complies in all material respects with the Recovery Plan (or, with respect to a particular item of non-compliance with the Recovery Plan relating to a numeric commitment, Tenant complies with the corresponding numeric commitment in the initial Project Commitments in any year during the operative period of the Recovery Plan and there is not a shortfall in such numeric initial Project Commitment at any later time during the operative period of the Recovery Plan exceeding twenty-five percent (25%) for three (3) or more consecutive years)).

(b) Provided that Tenant has theretofore made diligent and good faith efforts with respect to the CUSP program, if in connection with a Recovery Plan proposal during the first fifteen (15) years after the Phase 1 Operations Commencement Date Tenant proposes that the specific Project Commitments with respect to the subject matter of the CUSP program be supplemented (but not replaced) with an Alternate Applied Sciences Program, Landlord shall not unreasonably withhold, delay or condition its consent to such supplementing (including a reasonable time to implement the same).

(c) After the fifteen (15) year anniversary of the Phase 1 Operations Commencement Date (but not prior thereto), Tenant shall have the right (either as part of a Recovery Plan or otherwise upon prior written notice to NYCEDC and Landlord with reasonable specificity) to replace or supplement the specific Project Commitments with respect to the subject matter of the CUSP program with an Alternate Applied Sciences Program, in which event the milestone dates in the Project Commitments will be adjusted equitably to allow Tenant a reasonable time under the circumstances to put such Alternate Applied Sciences Program in

effect.

(d) Notwithstanding the foregoing, if Tenant fails timely to submit a Recovery Plan as provided in this Section 23.3 after receiving a notice of an Event of Default from Landlord or NYCEDC due to a failure by Tenant described in Section 24.1(h), or there is not an Approved Recovery Plan on or before the one hundred twentieth (120th) day after Tenant's submission of a proposed Recovery Plan after Tenant receives a notice of an Event of Default from NYCEDC or Landlord due to a failure by Tenant described in Section 24.1(h) (which one hundred twenty (120) day period shall be subject to extension in the event that NYCEDC or Landlord is required under this Section 23.3 to be reasonable and has not, in fact been reasonable), then the same shall be an Event of Default and Landlord shall be entitled to proceed under Article XXIV with respect thereto without further reference to this Section 23.3 in respect of such breach.

Section 23.4 CUSP Affiliate Agreements.

(a) Tenant has delivered to NYCEDC true, correct and complete copies of all CUSP Affiliate Agreements (including all amendments thereto as of the Effective Date) and any terminations of CUSP Affiliate Agreements entered into prior to the Effective Date.

(b) Tenant shall submit copies to NYCEDC of all CUSP Affiliate Agreements (and/or amendments to, or terminations of, CUSP Affiliate Agreements) as may be entered into after the Effective Date (and all such CUSP Affiliate Agreements, amendments or terminations shall, in any event, comply with the Project Commitments and with the RFP Response).

(c) Subject, in any event, to Section 23.3, (i) Tenant shall not be deemed in default under this Lease by reason of any CUSP Affiliate Agreement being modified or terminated so long as Tenant shall continue to materially perform its programmatic obligations under the Project Commitments, which may include entering into additional or modified CUSP Affiliate Agreements with academic institutions and/or business partners in furtherance of the CUSP mission and (ii) if any modification and/or termination of an CUSP Affiliate Agreement or CUSP Affiliate Agreements renders Tenant unable to continue to materially perform its programmatic obligations hereunder, then Tenant shall, within twelve (12) months after any determination that such an inability exists, enter into additional CUSP Affiliate Agreements or modify such existing CUSP Affiliate Agreements so that Tenant shall be able to materially perform its programmatic obligations hereunder.

ARTICLE XXIV
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to Commence the Initial Renovation Work on or before

applicable governmental authorities. On the basis of such environmental report, Tenant shall have purchased the Pollution Legal Liability coverage required by Section 7.7.

Section 21.2 Indemnification. Tenant shall defend, indemnify and save the Indemnitees harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, court costs and reasonable attorneys' fees and disbursements, that may be imposed upon, or incurred by, or asserted against, any of the Indemnitees (i) arising out of, or in any way related to the presence, storage, transportation, disposal, release or threatened release of any Hazardous Substances over, under, in, on, from or affecting the Premises, and any persons, real property, personal property, or natural substances thereon or affected thereby during the Term of this Lease, including, without limitation, any such liability, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses imposed upon, incurred by or asserted against Landlord or Lease Administrator under CERCLA, (ii) arising out of any action taken by Tenant or any of its contractors, employees, agents or subcontractors relating to Hazardous Substances, and (iii) any violations of any Environmental Laws. The indemnity provisions set forth in Article XX shall also apply to the indemnity obligations of Tenant set forth in this Section 21.2. The provisions of this Article XXI shall survive the Expiration of the Term.

ARTICLE XXII
LANDLORD'S RIGHT TO DISCHARGE LIENS

Section 22.1 Discharge of Liens. If Tenant shall fail to satisfy any claim or cause any mechanic's, laborer's, vendor's, materialman's or similar statutory lien or any public improvement lien to be discharged in accordance with the provisions of Article XVII hereof, and if such claim or lien shall continue for an additional twenty (20) days after the applicable cure period provided for in Article XVII, then Landlord may, but shall not be obligated to, upon notice to Tenant, satisfy such claim by payment thereof and/or discharge such lien of record by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lien or and to pay the amount of the judgment in favor of the lien or with interest, costs and allowances.

Section 22.2 Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any amounts paid by Landlord pursuant to Section 22.1 hereof, including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed by Tenant within fifteen (15) days of Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article XXII shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
PERFORMANCE AND COMMITMENTS

Section 23.1 Use and Operating Requirements. Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Article XXIII is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article XXIII shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article XXIII, including without limitation as follows:

(a) General; Definitions. During the Term, Tenant shall use the Premises, or cause the Premises to be used, for the Required Uses and, at Tenant's option (provided that the Premises are at all times being used for the Required Uses), for the Permitted Uses as defined in and in accordance with this Section 23.1 and for no other uses or purposes. For purposes of this Article XXIII, "Community Events" means any arts, cultural, concert, school, charitable, sporting, and/or civic event at the Premises, as well as the event known as the "Mermaid Parade," that is open to the general public on a free or paid basis; provided that all Required Events shall be free to the public.

(b) Required Amphitheater Uses. Tenant shall use and operate the Amphitheater Property as a first class amphitheater for outdoor Community Events in accordance with the terms of this Section 23.1. In furtherance of the foregoing, Tenant shall make the Amphitheater Property available to Producer (hereinafter defined) for up to fifteen (15) free concert events annually (the exact annual number to be determined by the Producer, provided that Producer shall be required to hold not less than six (6) free concerts annually), including for so long as it is produced the maximum fifteen (15) free concerts that comprise the Seaside Summer Concert Series produced by Seaside Summer Concert Series, Inc. (the "Seaside Producer"), or any successor producer thereof (the Seaside Producer and any successor producer of the Seaside Summer Concert Series or any other Producer designated as such pursuant to the terms of this Lease being hereinafter referred to as, the "Producer"), with scheduled start times on Monday, Tuesday, Wednesday, Thursday, Sunday and, at the option of Producer, on one of the following (hereinafter referred to as the "Producer's Three Weekend Nights"): (i) three (3) Friday nights, (ii) three (3) Saturday nights, or (iii) a combination of Friday and Saturday nights for a total of three (3) Friday and Saturday nights in the aggregate, between 6:00 PM and 8:30 PM as requested by the Producer (understanding that the Producer may request times outside of such days and hours, but Producer shall have priority with respect to such days and hours)

during the period from Memorial Day through Labor Day (the "Summer Season") of each Scheduling Year (hereinafter defined) during the Term (the uses described in this sentence being hereinafter referred to, collectively, as the "Required Amphitheater Uses," and the events described in this sentence being the "Required Events"). The parties acknowledge that the exact number of Required Events to be held annually, up to a maximum of fifteen (15), shall be determined by Producer; provided that Producer shall be required to hold not less than six (6) concerts annually unless Landlord shall waive such minimum requirement in writing. During Required Events, Tenant shall make the Amphitheater Property available to Producer at no cost to Producer, except that Producer shall be responsible to Tenant for any and all stage hand labor, security, cleaning, lighting, sound, video, utility, vendor and all other variable costs for services or items incurred or provided by Tenant in connection with the Required Events (without mark-up by Tenant) that would not otherwise have been incurred or provided by Tenant if the Required Events had not been scheduled (whether or not such scheduled Required Events actually occur) and as between Tenant and Producer, Producer shall be liable for any damage, injuries and claims directly related to the Required Events (provided that Tenant shall not be relieved of liability under this Lease for such damage, injuries and claims). However, if Producer provides Tenant with fifteen (15) Business Days prior notice of cancelation of a Required Event, then Producer shall not be liable for any costs specified in the immediately preceding sentence. Producer shall carry its own Commercial General Liability insurance for the Required Events, name Tenant and the Additional Insureds as additional insureds and provide Tenant with a certificate evidencing such coverage prior to each Required Event. If the Seaside Summer Concert Series is no longer produced or if Producer fails to continue to qualify as a Qualified Producer (as defined in Article I) or is otherwise terminated by Landlord as described in Section 23.1(h) hereof, either: (a) Tenant shall use its best efforts to promptly identify a successor producer acceptable to Landlord in its sole discretion to produce a similar series of free concerts, or (b) Landlord may designate a successor and, in either case, such successor shall be the "Producer" for all purposes of this Lease; provided that if Landlord designates a successor, Landlord's decision shall control. In connection with the foregoing, Tenant acknowledges that one of Landlord's goals in undertaking the Project is to maximize the use of the Amphitheater Property by and on behalf of the residents of Brooklyn and the City of New York by providing the Required Events described in this Article XXIII. At Producer's request and subject to the restrictions on use set forth in this Article XXIII and in Exhibit J hereto, Tenant shall permit Producer's sponsors listed on Exhibit N hereto ("Producer's Approved Sponsors") as well as Producer's other sponsors ("Producer's Other Sponsors") to advertise and sell merchandise during the Required Events; provided that with respect to Producer's Other Sponsors, such sponsors' advertising and sales are not prohibited by the express terms of any written advertising or sponsorship agreement entered into by Tenant. Tenant shall not be entitled to any portion of the proceeds from, or any compensation with respect to, Producer's advertising and sales arrangements described in the immediately preceding sentence. For the avoidance of doubt, in order to give effect to the terms of this Article XXIII, Tenant shall enter into a license agreement with Producer to provide the Required Amphitheater Uses and the Required Events in accordance with the terms of this Article XXIII throughout the Term of this Lease.

(c) Additional Community Events. So long as the provisions of Section 23.1(b) above are complied with, the Amphitheater Property may also be used for additional Community Events; provided that such events comply with the terms of this Lease,

including all Requirements (including all permits of the New York City Planning Commission that govern the Premises).

(d) Required Childs Building Uses. Subject to Section 23.2(c) and Section 23.2(d) below, Tenant shall use and operate the Childs Building solely for additional Community Events, retail and/or restaurant purposes as well as related office space (including not more than 200 square feet for an office for Principals of Tenant pursuant to a Permitted Sublease), storage of personal property used in the operation of the Amphitheater and the location of the stage for the Amphitheater (the "Required Childs Building Uses") (the Required Childs Building Uses together with the Required Amphitheater Uses being hereinafter referred to, collectively, as the "Required Uses"); provided that in all cases the use of the Childs Building (i) shall be for a first class business of the type of business being operated by Tenant (by way of example, if Tenant is operating a hamburger restaurant in the Childs Building, Tenant shall operate the business as a first class hamburger restaurant), operated in a clean and professional manner and (ii) shall not compromise the character and reputation of the Amphitheater Property as a first class amphitheater or be antithetical to the Project as a prominent symbol of the City or State of New York as determined by Landlord in its sole discretion. Tenant shall not use the Childs Building, or permit the Childs Building to be used, for any use other than the Required Childs Building Uses.

(e) Ancillary Uses for Amphitheater Property. So long as the provisions of Section 23.1(b) above are complied with, Tenant shall also have the right to use and operate the Amphitheater Property for the following ancillary uses: customary theatre concessions, retail sales of merchandise relating to Amphitheater Property events, food and/or beverage service (alcoholic (subject to obtaining the insurance required in Article VII) and non-alcoholic) and advertising in connection with use of the Amphitheater (subject to the terms of this Lease regarding advertising); provided, however, that (x) the primary use of the Amphitheater Property shall be as an amphitheater for outdoor Community Events described in this Article XXIII, and (z) the use of the Premises or the pattern of programming thereof shall not compromise the character and reputation of the Amphitheater Property as a first class amphitheater. In connection with the foregoing, the stage for the Amphitheater shall be placed within the Childs Building facing outwards onto the Amphitheater Property as set forth in the Approved Plans and Specifications. The uses under this clause (c) and the preceding clause (c), collectively, shall be known as the "Permitted Uses."

(f) HireNYC Program. Tenant shall comply with the HireNYC Program annexed as Exhibit H hereto.

(g) Prohibited Uses. The Premises may not be used for the sale or advertising of tobacco products. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any purpose other than the Required Uses and the Permitted Uses without (in each instance) the prior written consent of Landlord in its sole discretion. Without limiting the generality of the preceding sentence, Tenant shall not use or occupy, or permit or suffer any portion of the Premises to be used or occupied (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 23.1 or Article XVI hereof or the certificate(s) of occupancy or the Special Permit for the Premises, (iii) in such manner as may make void or voidable any

insurance then in force with respect to the Premises, (iv) in any manner that would compromise the character and reputation of the Amphitheater Property as a first class amphitheater or the character and reputation of the business operated in the Child's Building as a first class business of the type of business being operated by Tenant in the Childs Building operated in a clean and professional manner, (v) in any manner that would be antithetical to the Project as a prominent symbol of the City or State of New York as determined by Landlord in its sole discretion. or (vi) for any residential use. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises, or any part thereof, in violation of this Section 23.1, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants or licensees using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 23.1 or Article XVI hereof. The provisions of this Section 23.1 shall not restrict Tenant's rights under Article XXXIV hereof to contest any Requirements.

(h) Requirements of the Producer. For purposes of this Article XXIII and notwithstanding anything to the contrary in this Lease, any Producer hereunder, including the Seaside Producer, shall be a Qualified Producer and shall be required to enter into a license agreement with Tenant for use of the Amphitheater in accordance with the terms of this Lease. In the event of any disagreement between Producer and Tenant regarding the terms of such license agreement (all of which shall be customary and reasonable for a business of the type and size of Producer), the parties shall submit such disagreement to Lease Administrator whose decision shall be final and binding on Producer and Tenant. On the Effective Date and prior to the appointment of any Person as Producer hereunder, the Seaside Producer and each such other prospective Producer (collectively, for purposes of this paragraph a "proposed Producer"), as applicable, shall be required to provide documentation requested by Lease Administrator to demonstrate its status as a Qualified Producer, including Required Disclosure Statements in the form of Exhibit E hereto, and otherwise in a form reasonably satisfactory to Lease Administrator. In the event that the information set forth in the Required Disclosure Statements or other document provided pursuant to this paragraph reveals a proposed Producer with whom the City and/or NYCEDC will generally not do business, or if such information is otherwise not acceptable to the Lease Administrator, acting in its sole discretion, then the proposed Producer shall not be acceptable and another Person shall be chosen by Landlord as Producer, subject to the same qualification process. On an annual basis, Producer shall be required to submit the information reasonably requested by Lease Administrator to confirm that Producer continues to meet the requirements of a Qualified Producer and in the event that Producer fails to continue to meet such requirements, Landlord may replace Producer, and Tenant shall use its best efforts to assist Landlord in identifying a replacement. Further notwithstanding anything to the contrary in this Lease, if at any time Landlord determines, in its sole discretion, that Producer is not holding at least six (6) Required Events annually, is not performing in a professional manner, or any Person's continuation as Producer hereunder is antithetical to the Project as a prominent symbol of the City or State of New York or otherwise antithetical to the Project Commitments, as determined by Landlord in its sole discretion, then Landlord may terminate the status of such Person as Producer hereunder and designate another Person to act as Producer and Tenant shall use its best efforts to assist Landlord in identifying a replacement producer and, if necessary and requested by Landlord, terminate any outstanding license agreement with the Producer being replaced and enter into a new license agreement with the Person then designated by Landlord as the new Producer.

Section 23.2 Operation. Subject to the terms of this Article XXIII, the operation of the Premises shall be under the exclusive supervision and control of Tenant, provided that Tenant shall in all events operate the Amphitheater Property or cause the Amphitheater Property to be operated consistent with the Amphitheater Property being a first class amphitheater and operate the business in the Childs Building, or cause the business in the Childs Building to be operated, as a first class business of the type of business being operated by Tenant in the Childs Building operated in a clean and professional manner and which shall not compromise the character and reputation of the Amphitheater Property as a first class amphitheater or be antithetical to the Project as a prominent symbol of the City or State of New York. The requirements for the operation of the Premises set forth in this Section 23.2 are hereinafter referred to as the "Operating Commitments."

(a) Subject to the terms of this Section 23.2, (i) on or before May 27, 2016, Tenant shall commence operation of the Amphitheater and (ii) on or before May 26, 2017, Tenant shall commence operation of the entire Childs Building, in the case of both clause (i) and clause (ii) for the purposes described in Section 23.1 above and thereafter shall continue active use and operation of the Premises for the Term. The time periods set forth in Section 23.2(a), (b) and (c) with regard to Operating Commitments shall be subject to Unavoidable Delays as the result of events limited to those specified in clauses (v), (vi) and (vii) of the definition of "Unavoidable Delays" in each instance not to exceed ninety (90) days. For the avoidance of doubt, the terms of the immediately preceding sentence shall not affect any of the various dates for the completion of phases of the Initial Construction Work described in Section II of Exhibit B hereto wherever such dates are referenced in this Lease (including without limitation in Article XIII and in Article XXIV hereof).

(b) Promptly, but in no event later than the Scheduled Completion Date, Tenant shall make the Amphitheater available as required by this Section 23 for the Required Events in each Scheduling Year (including the balance of the first Scheduling Year in which occurs commencement of operation of the Amphitheater) for the balance of the Term. For the avoidance of doubt, Tenant is required to permit up to fifteen (15) Required Events to be held annually in the Amphitheater, the final number to be determined by Producer, and to make the Amphitheater available for the scheduling and holding of such events by Producer during each Scheduling Year, subject to the scheduling requirements set forth in Section 23.4 hereof.

(c) On or before May 26, 2017, Tenant shall commence operation of the Childs Building for the Required Childs Building Uses for the balance of the Term. In furtherance thereof, Tenant shall operate the Childs Building, or cause the Childs Building to be operated, for the Required Childs Building Uses so that not less than Seven Thousand Five Hundred (7,500) square feet of the first floor of the building is active and open to the public (the "Full Time Use Space") on an annual basis not less than five (5) days per week (other than during the weeks in which Christmas and New Year's Day occur, in which case the requirement shall be four (4) days during such weeks) and (i) during the period from May 1st through October 31st not less than thirty (30) hours per week, including three (3) hours on each of five (5) days during the week and (ii) during the period from November 1st to April 30th not less than three (3) hours per day on each of five (5) days (four (4) days during the weeks in which Christmas and New Year's occur) during the week (all of such days and hours being hereinafter

referred to, collectively, as the "Full Time Requirement"); provided, however, that , (1) all office use located on the first floor may not exceed 1,000 square feet, (2) storage of personal property used in the operation of the Amphitheater shall be located solely in the basement and (3) the Full Time Use Space must be used for either (i) retail use open to the public in accordance with the Full Time Requirement or (ii) restaurant use open to the public in accordance with the Full Time Requirement. For the avoidance of doubt, the entire Full Time Use Space must be used for either the use specified in clause (i) or the use specified in clause (ii) in the immediately preceding sentence and not for a combination of such uses. In the event that all of the Full Time Use Space is not open to the public and operating for either a (i) retail or (ii) restaurant use in accordance with the Full Time Requirement for six (6) consecutive months (excluding one (1) period not to exceed two (2) consecutive months of construction build-out for a restaurant or retail use in any two (2) year period), then Landlord may terminate this Lease effective immediately upon delivery of notice to Tenant; provided that Landlord's right to terminate the Lease set forth in this Section 23.2(c) shall be in addition to and shall not limit Landlord's rights and remedies set forth in Article XXIV or elsewhere in this Lease. Tenant acknowledges that in order to comply with the terms of this Section 23.2(c), if Tenant shall not be the operator of the Full Time Use Space, then the operator of the entire Full Time Use Space must be a Permitted Subtenant under a single Permitted Sublease with a term of not less than two (2) years and short-term or "pop-up" businesses will not satisfy the requirements of this Section with regard to the Full Time Use Space.

(d) During the period beginning on May 27, 2016 and ending on September 5, 2016 (the "2016 Summer Period") Tenant shall operate, or cause to be operated, not less than 4,000 square feet of the Childs Building (all or a portion of such space may be located on the roof of the Childs Building) as an active restaurant, bar or retail use that is not prohibited by the terms of this Lease. If Tenant elects not to operate or otherwise use the "white box" interior space of the Childs Building during the 2016 Summer Period, Tenant shall make such space available to Landlord, at no cost to Landlord, for Community Events and other Landlord programming; provided however, that Landlord shall coordinate its use of such space in a manner that does not interfere with any construction or other Tenant activities in the Childs Building.

Section 23.3 Project Report. Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Lease Administrator may reasonably request from time to time (but not more than twice during any twelve (12) month period) upon not less than sixty (60) days prior written notice, Tenant shall deliver a written report to Lease Administrator (the "Project Report") setting forth in narrative form a status report on the Project and the manner in which Tenant is complying with the Project Commitments and the Operating Commitments, which written report shall be in a form and contain such information as shall be reasonably satisfactory to Landlord. The Project Report shall, among other things, contain Tenant's certification that (i) the Premises are in compliance with the Project Commitments, (ii) the Premises are in compliance with the Operating Commitments and Article XXIII of the Lease, (iii) in its reasonable and good faith judgment, Tenant anticipates that it will be able to comply timely with any Project Commitments and/or Operating Commitments to be performed in the upcoming calendar year, and (iv) the Premises is being used and operated in strict compliance with the Required Uses and the Permitted Uses and no other uses. In the event that Tenant shall be unable to provide the required certification, the Project Report shall identify any

areas of non-compliance with specificity and explain the reasons for such non-compliance (a "Non-Compliance Notice"). Landlord shall endeavor to review each Project Report and submit any questions or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Project Report.

Section 23.4 Preparation of Event Schedule for each Scheduling Year. All Required Events scheduled in accordance with the required timeframes set forth below shall be added to the Event Schedule prior to any other event being added thereto.

(a) Event Schedule. At all times during the Term, the following shall apply: Each calendar year, a schedule of Required Events and Community Events to take place at the Amphitheater during the following Scheduling Year shall be prepared as follows (subject to the conditions set forth in clauses (b) and (c) of this Section 23.4):

(i) On or before February 1st of each calendar year, Producer and/or Landlord shall provide Tenant with a written schedule (the "Required Events Schedule") of the dates of all Required Events scheduled for the period from May 1st of such calendar year to April 30th of the following calendar year (such period being hereinafter referred to as, the "Scheduling Year"). The parties acknowledge and agree that because Producer is required by this paragraph to commit to dates prior to the time Producer normally would book Required Events, Producer and/or Landlord may reserve up to a total of fifteen (15) dates pursuant to this paragraph and shall not be required to have commitments for such dates (for the avoidance of doubt, Tenant may not similarly reserve dates on the Event Schedule except for the Tenant Reserved Dates (hereinafter defined)). Furthermore, because it is the agreement of the parties that Producer shall have the absolute right on or before February 1st of each calendar year to designate fifteen (15) dates for Required Events in the Amphitheater as provided in this paragraph, Tenant shall not schedule any Community Event prior to February 1st except in accordance with the following terms and conditions in this Section 23.4(a)(i). If before February 1st of any given year Tenant desires to schedule a Community Event, Tenant shall provide Producer and Landlord with notice of the desired scheduling and Producer shall have forty-eight (48) hours (excluding hours on days other than Business Days) to respond to Tenant and deliver to Tenant evidence that Producer has booked or is in the process of booking a Required Event for the date at issue. If Producer fails to provide the aforementioned evidence within such forty-eight (48) hour period, Tenant shall be entitled to reserve the Amphitheater on the desired date; provided, however, that Tenant's right to so reserve the Amphitheater for a Tenant-arranged Community Event prior to February 1st and in accordance with this sentence shall be limited to four (4) instances per Scheduling Year. If at any time following February 1st of any given year Producer wishes to reschedule a Required Event or replace a previously scheduled Required Event with a Required Event to take place on a different date or change a date on the Required Events Schedule or on the Events Schedule, Producer shall provide Tenant notice of the desired schedule change

and Tenant shall have forty-eight (48) hours (excluding hours on days other than Business Days) to respond and deliver to Producer evidence that Tenant has booked or is in the process of booking an event at the Amphitheater for the date at issue. If Tenant fails to produce the aforementioned evidence within such forty-eight (48) hour period, Producer shall be entitled to the desired schedule change and Tenant shall immediately change the Events Schedule accordingly. Notwithstanding anything to the contrary, Producer shall always be provided with Producer's Three Weekend Nights in every Scheduling Year.

(ii) On or before April 1st of each calendar year, Tenant shall provide Producer and Landlord with a written schedule of the dates of all Required Events (based on the dates provided to Tenant by Producer and/or Landlord) and Community Events scheduled by Tenant (the "Event Schedule") for the following Scheduling Year, including the approximate dates for preparation therefor and clean-up thereof, which schedule Tenant may modify from time to time effective on no less than ten (10) days' written notice to Producer and Landlord (subject to this Section 23.4), except where the holding of a Community Event scheduled by Tenant could not reasonably have been foreseen ten (10) days prior to the commencement thereof, in which case Tenant shall give written notice to Producer and Landlord as soon as such event is scheduled; provided that any event not scheduled as of April 1st of any calendar year may be scheduled only for such dates during such year that do not conflict, as reasonably determined by Producer and Landlord, with events reflected on the schedule then in effect, unless Landlord and Tenant reasonably agree that the simultaneous holding of any Required Event, Landlord Event (hereinafter defined) and Tenant scheduled Community Event is operationally practicable in terms of parking, traffic flow and congestion, crowd control and security, and avoidance of interference of enjoyment by one event with the other. Notwithstanding anything to the contrary in this Lease, Tenant shall be permitted to reserve the specific five (5) days set forth on Exhibit O hereto during each Scheduling Year ("Tenant's Reserved Days") solely for the purpose of holding the event known as the "Mermaid Parade" sponsored by Coney Island USA and Community Events related to the Mermaid Parade and such days shall not be available to Producer. Each year Tenant shall notify Producer on or before January 1st that Tenant shall be using Tenant's Reserved Days for the following Scheduling Year in which case Producer shall not schedule any Required Event on such days; provided, however, that in the event that Tenant does not so notify Producer then Tenant's Reserved Days shall be forfeited for the next Scheduling Year and Producer may use such days at its option. In no event shall Tenant be entitled to use Tenant's Reserved Days or place them on the Event Schedule for any purpose other than the Mermaid Parade and related Community Events.

(iii) On or before the date which is twenty (20) Business Days after the Event Schedule has been received by Landlord (the "Landlord Scheduling Date"), Landlord may provide Tenant with a written schedule of events ("Landlord Event Schedule") that Landlord intends to be scheduled in the Amphitheater for the upcoming Scheduling Year to be added to the Event

Schedule, which events ("Landlord Events") shall be at no cost to Landlord (other than the same costs for which Producer is responsible with respect to the Required Events and subject to the same right of cancelation provided to Producer in Section 23.1(b) above) and provided that (A) Landlord shall be liable for any damage, injuries and claims directly related to the Landlord Events and (b) Landlord may not schedule a Landlord Event during a time when a Required Event or Community Event has been scheduled.

(iv) Commencing on the Landlord Scheduling Date and continuing thereafter throughout the balance of the Scheduling Year, Landlord and Tenant shall work together promptly, reasonably, and in good faith to add to the Event Schedule each additional Landlord Event (which may include additional Producer events) and Community Events that Landlord and Tenant, respectively, then desire to add, taking into account the previously scheduled events and conflicts between the parties' respective proposed additional events.

(b) Adding Events to Event Schedule. Whenever Producer or Tenant desire to book an event and include the event on the Event Schedule pursuant to Section 23.4(a), Producer and Tenant shall give written notice to Landlord (each a "New Event Notice") of its request to do so as soon as reasonably possible, but in no event less than twenty (20) days prior to the date of the proposed event. For the avoidance of any doubt, every event included on the Event Schedule shall be subject to the requirements and procedures detailed in this Section 23.4(b); that is, Producer and Tenant shall submit to Landlord a New Event Notice for each event it desires to book and include on the Event Schedule at any time.

(i) Each New Event Notice shall include a description of the proposed event, including the nature, starting time and estimated duration thereof; the expected attendance thereat; the identity and experience of the promoters and organizers of the proposed event, and their principals; a description of any special safety, security, lighting, sound, video, stage hand labor, cleaning, maintenance, restoration or other services that will be obtained in connection with the proposed event (or in the case where Tenant is providing services or items for a Required Event, Tenant will provide Producer with notice of the cost to be reimbursed by Producer in accordance with this Article XXIII), and the approximate preparation and clean-up periods for the proposed event.

(ii) Landlord shall notify Producer or Tenant, as applicable, as soon as reasonably possible but in no event more than ten (10) days after its receipt of such New Event Notice, whether Landlord objects to the proposed event. Landlord may object to any new proposed event and prevent such event from taking place in its sole and absolute discretion; provided, however, that Landlord agrees to make such objection only if Landlord believes in good faith that the proposed event may be adverse to the interests of the City and not to object solely for the purpose of reserving a particular date . -If no objection notice is given within such ten (10) day period, the event shall be approved and included

on the Event Schedule in accordance with the terms and conditions of this Section 23.4.

(c) Required Information. In no event shall any event be included on the Event Schedule unless the scheduling thereof would be in compliance with each of the following criteria:

(i) Events shall be scheduled so as to allow reasonably sufficient preparation, clean-up and restoration periods between each event.

(ii) In the case of Tenant scheduled Community Events and Landlord Events (but not Required Events), the event must be a specific, planned event (i.e., neither party may reserve a time on the Event Schedule on the basis that it intends to hold on such date a certain type of event, as opposed to a specific event).

(iii) All events at the Amphitheater must be scheduled so they are reasonably likely to end no later than 11:00 pm. Should an event end later than 11:00 pm, the event may continue past 11:00 pm, but Tenant must use reasonable efforts to have event attendees and other staff or other personnel exit the Amphitheater as soon as possible after the end of the event.

Section 23.5 Public Access. The areas of the Premises depicted in Exhibit M shall remain open to the general public at all times within the hours of operation of the Coney Island Beach and Boardwalk (as may be modified from time to time by the New York City Department of Parks and Recreation) as publicly accessible open space, and shall remain clear and unobstructed (other than incidental obstructions by seating, planters, kiosks, etc.), provided, however, that such area(s) may be closed to the public temporarily for reasonable periods of repair and maintenance, and may be subject to reasonable crowd control measures during events. Notwithstanding the foregoing, entrance onto event areas on the site plan depicted in Exhibit M may be limited to event attendees during scheduled events.

ARTICLE XXIV
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall have failed to achieve Preparation for Construction on or before the Scheduled Construction Preparation Completion Date (which date shall not be subject to extension for Unavoidable Delays);

(e) Deposits with Recognized Lender. In the event that a Recognized Lender shall require Tenant to deposit funds to insure payment of Impositions or insurance premiums, the same shall be credited against any amounts required to be deposited under this Article 7 for so long as such funds are used solely to pay Impositions or insurance premiums, it being agreed that if the deposits required by a Recognized Lender shall equal or exceed the amounts required to be deposited under this Article 7, then no such payments shall be required under this Article 7. The disposition of such amounts shall be governed by the applicable loan documents pursuant to which the same are deposited with such Recognized Lender, *provided*, that Tenant shall notify Landlord, or cause the Recognized Lender to immediately notify Landlord, of any disbursement of deposited funds, and, to the extent such funds are applied by the Recognized Lender to payments other than Impositions or insurance premiums, within five (5) Business Days after demand by Landlord, Tenant shall restore sufficient funds to the account to satisfy the requirements of Sections 7.01(a) and (b) hereof.

Section 7.02 Effect of Sale or Transfer of Premises By Landlord. In the event of Landlord's sale or transfer of the Premises, Depositary shall continue to hold any moneys deposited with it pursuant to the provisions of Sections 7.01(a) and (b) hereof and shall transfer such deposits to a special account established in the name of the Person who acquires the Premises, assumes Landlord's obligations under this Lease, and becomes Landlord for the purposes provided in the applicable provisions of this Lease. Upon such sale or transfer, the transfer of such deposits and notice thereof to Tenant, Landlord shall be deemed to be released to the extent of the deposits so transferred from all liability with respect thereto and Tenant shall look solely to the Depositary and new Landlord with respect thereto. Landlord shall deliver to Tenant a copy of the instrument of transfer to the new Landlord. The provisions of this Section 7.02 shall apply to each successive transfer of such deposits.

Section 7.03 Effect of Termination. Upon the Expiration Date, if this Lease shall terminate, or the Term shall terminate or expire and a new lease shall not be entered into or this Lease not continued with a Recognized Lender, all remaining deposits then held by Depositary, together with interest accrued thereon, shall be applied by Landlord on account of any and all sums due under this Lease and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant within ninety (90) days of such termination, or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord promptly following demand.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

(a) Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Section 8.01 and for no other use or purpose is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Section 8.01 and Section 14.08 shall constitute a material breach under the terms of this Lease. Accordingly, subject to the provisions herein, Tenant shall use the Premises for the sole purposes of Residential Use, Commercial Use,

Community Space Use and Public Access Area Use, with respect to each portion of the Premises so indicated for such use in Exhibit D, and uses accessory thereto (the "Permitted Uses"). In furtherance of the foregoing, the Residential Use component shall include housing units consistent with the requirements of the Project Commitments (including without limitation, affordable for the Term), the terms of the Regulatory Agreement, or any successor agreements, and the MIH Restrictive Declaration. Tenant shall comply with the terms and provisions of the Regulatory Agreement. For purposes of this Lease:

"Commercial Use" has the meaning set forth in the Zoning Resolution, provided, however, that in no event shall the Premises be used for hotel, motel, hostel or other lodging purposes without Landlord's prior written consent which may be granted or withheld in Landlord's sole and absolute discretion.

"Community Space Use" means use by the general public (which may include a membership requirement, provided that membership is available to the general public on a non-discriminatory basis) for participation, training or practice of physical fitness related activities, the arts and culture (such as without limitation museum, theatre, music, dance, performing arts, painting and sculpting), education, hobbies and crafts, day care, after school programs, and other family services, health and wellness services, social services and other similar activities directed towards providing services and/or activities relating to the health and well-being of the residents and general public and any other community space use permitted by the Zoning Resolution.

"Cultural Space" means space operated by one or more not-for-profit entities dedicated (i) to the celebration and preservation of the history of local and global hip-hop music and culture, (ii) for purposes ancillary and incidental to the forgoing uses, or (iii) for such other cultural, educational, artistic, community, social service or recreational use for the benefit of the people of the City as the City shall approve, which Cultural Space has been subsidized with funding from the City's Department of Cultural Affairs (or its successor in function (collectively, "DCLA")) or any City agency or instrumentality designated by DCLA to provide such funding, and the use of which space is in accordance with the terms of such funding. For sake of clarity, use of space primarily for commercial for-profit public entertainment, such as a movie theatre, playhouse, dance hall, cabaret, supper club, disco, night club or the like would not qualify as Cultural Space.

"MIH Residential Use" means dwellings occupied by residential tenants (and excludes transient dwelling use) in accordance with the MIH Program.

"Non-Residential Space" means the Commercial Space and the Community Space Use space.

"Prohibited Uses" means, individually and collectively, the following uses on the Premises or any portion thereof:

(i) the operation on the Premises of a so-called "flea market";

(ii) selling or displaying for sale any "adult printed or visual material" as defined in the definition of "Adult Establishment" under the Zoning Resolution;

(iii) use as a gambling or gaming establishment (including as an Off-Track Betting, sport gambling, casino gambling or similar establishment); provided, that the sale of lottery tickets and use as an arcade for non-gambling games shall be permissible;

(iv) use as an office, store, reading room, headquarters, center or other facility devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (a) any political party, political movement or political candidate, (b) any religion, religious group or religious denomination, (c) any foreign government, or (d) any "cause" of a political or religious type or nature;

(v) the operation of any establishment the primary purpose or products of which are sexual in nature;

(vi) the operation of any establishment the primary purpose of which is the sale of alcohol;

(vii) operating a so-called "head shop" or a facility for the sale of paraphernalia intended for use with illicit drugs; and

(viii) operating a pawn shop or auction house.

"Public Access Area Use" means the use of the Public Access Area by the residents and the general public as required by the Zoning Resolution and more particularly described in Exhibits D and J.

"Residential Use" means dwellings occupied by residential tenants (and excludes transient dwelling use) including according to the terms of the Regulatory Agreement(s) and includes but is not limited to MIH Residential Use.

(b) Tenant shall cause each component of the Project to be leased and occupied for the purposes, in the amounts of space, and within the time frames in Exhibit D. The following protocol (the "Protocol") shall apply to the use of the Non-Residential Space in compliance with the requirements set forth in Exhibit D:

(i) Tenant shall keep Lease Administrator reasonably informed, on a current basis, of the steps being taken by Tenant initially to sublease the Non-Residential Space in compliance with the standards provided in Section 8.01(a) of this Lease. Furthermore, on an annual basis commencing one (1) year following Substantial Completion of the Initial Construction Work, Tenant shall certify to Lease Administrator (the "Annual Certification") that (A) Tenant is in compliance with the requirements set forth in Exhibit D including an occupancy of ninety percent (90%) or more of the net rentable square footage of the portion of the Premises intended to be used for Commercial Use and ninety percent (90%) or more of the net rentable square footage of the portion of the Premises intended to be used for the Community Space Use

or (B) to the extent it is not in compliance with respect to any Non-Residential Space requirements, identifying (i) such non-compliant Non-Residential Space, (ii) the nature of the non-compliance and (iii) the steps being taken, consistent with the provisions of the Protocol, to address such non-compliance.

(ii) Landlord shall have all remedies available to it hereunder if Tenant is in default of its obligations under this Section 8.01(b) with respect to the Non-Residential Space, as set forth herein, but Tenant shall not be construed to be in default of its obligations hereunder if, but only for so long as, it is addressing any non-compliance in accordance with the provisions of the Protocol. The Annual Certification to be provided by Tenant shall indicate whether Tenant anticipates any difficulty in meeting the requirements relative to any Non-Residential Space during the forthcoming year, identifying the nature of the anticipated difficulty and the steps proposed to be taken by Tenant to address the same.

(iii) In the event that Tenant is unable, with respect to any Non-Residential Space at any time during the relevant period(s) described in Exhibit D, to comply with the leasing and use requirements set forth in Exhibit D for such space, Tenant shall provide notice of such inability to Landlord, documenting, in such notice, the commercially reasonable efforts made by Tenant, over a period of not less than twelve (12) months, to lease the Non-Residential Space in accordance with the provisions set forth in Exhibit D. In such event, Tenant (following consultation with Landlord) shall identify a party who will use the Non-Residential Space for another non-residential use reasonably acceptable to Landlord and in a manner reasonably acceptable to Landlord and consistent with the overall objectives of the Project. At its option, Landlord or Lease Administrator may request that Tenant and/or the operator of the Cultural Space ("Cultural Space Operator") provide financial statements documenting the operating expenses and rent charged, as well as certifications regarding compliance with Cultural Space requirements. No departure from the requirements set forth in this Section 8.01 shall be permitted without adhering to the Protocol.

(iv) For purposes of the Protocol, "commercially reasonable efforts" shall at a minimum include (as applicable) outreach to (A) community organizations (in the case of the Community Space), (B) brokers and small vendor associations or similar groups (in the case of the Commercial Space), (C) brokers and cultural/arts/educational organizations (in the case of the Museum Facility) and (D) in each case other similar parties. In no event shall the Protocol be construed to permit Tenant to (x) convert any use specific requirements or (y) alter the specific square footage commitments described in Exhibit D.

(c) Except as provided herein, Tenant shall not use the Premises (and Tenant shall use Commercially Reasonable Efforts to ensure that no Subtenant uses the Premises) for any purpose other than the Permitted Uses, and in no event shall Tenant use the Premises (and Tenant shall use Commercially Reasonable Efforts to ensure that no Subtenant uses the Premises) for any of the Prohibited Uses, in each case, except with the prior written approval of Landlord to be given in its sole discretion.

(d) Tenant shall keep Landlord informed, on a regular basis (which, at Landlord's option, may be by email), of any and all prospective leases for any Non-Residential

Space and shall provide to Landlord, at Landlord's request, copies of any and all letters of intent executed by any prospective sub-tenants.

Section 8.02 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any Person. Tenant shall obtain and maintain (or require any Subtenant to obtain and maintain) in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply (or require any Subtenant to comply) with any other applicable Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use. Tenant shall not use or occupy the Premises or, subject to Section 14.08 hereof, permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any applicable Requirement, the certificate of occupancy or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Promptly, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall use Commercially Reasonable Efforts to compel the discontinuance thereof, including but not limited to, if necessary, to cause the removal from the Premises of any Subtenant or occupant, as applicable, using any portion of the Premises for any such business, use or purpose. The provisions of this Section 8.03 shall not restrict Tenant's rights to contest any applicable Requirements. Tenant shall not keep, on the Premises any article, object, item, substance or thing that is reasonably likely to cause damage to the Premises or any part thereof or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 Hazardous Substances.

(a) Tenant covenants that the Premises shall be kept free of Hazardous Substances (or, with respect to portions of the Premises demised under Subleases, Tenant shall use its Commercially Reasonable Efforts to ensure that Subtenants keep the portions of the Premises demised under Subleases free of Hazardous Substances), and Tenant shall be responsible for remediating any Hazardous Substances that exist on the Lease Commencement Date as part of the Initial Construction Work. Tenant shall not use, transport, store, dispose of or in any manner deal with Hazardous Substances at the Premises except as and to the extent permitted by Environmental Law. Tenant shall not cause the release of Hazardous Substances in, from, at or onto any portion of the Premises in violation of any Environmental Laws.

(b) The Premises shall be delivered "as-is". As of the Lease Commencement Date, Tenant shall assume all liability for Hazardous Substances on the Premises. However, Tenant shall not be responsible for liability for Hazardous Substances to the extent arising from any negligent acts or omissions (or willful misconduct) of Landlord, NYCLDC or NYCEDC and/or any of their respective Representatives. Notwithstanding the previous sentence, to the extent pre-existing conditions are disturbed or exacerbated as a result of actions that occur during

Tenant's occupancy of the Premises, Tenant shall be responsible for any resulting liability. For the purposes hereof, Tenant's possession of the Premises shall be deemed to include, but not be limited to, any period during which Tenant made use and/or occupancy of the Premises. In the event any Hazardous Substances shall be found within, under, or upon the Premises (and to the extent not remediated as part of the remediation performed by Tenant as part of the Initial Construction Work), Tenant shall (x) promptly take or cause to be taken any action required by a Governmental Authority under any applicable Environmental Laws with respect to such Hazardous Substances, (y) notify Landlord of the discovery of any occurrence or conditions on the Premises, or any real property adjoining or in the vicinity of the Premises to the extent that Tenant has actual knowledge of same, provided that Tenant shall have no duty to make independent inquiry or investigation unless required by any applicable Environmental Law and Requirements, and solely to the extent the occurrence or conditions is or are reasonably likely to cause the Premises or any part thereof to be subject to any liability or action under any Environmental Law, and (z) notify Landlord of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Premises pursuant to any applicable Environmental Law. The expense for all such action shall be the responsibility of Tenant, except that Tenant shall not have any duty to pay for or to reimburse Landlord for any costs or expenses resulting from any negligent acts or omissions (or willful misconduct) of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors, and Landlord shall bear all costs and expenses for any such negligent acts and/or omissions (and/or willful misconduct). All action with respect to any Hazardous Substances on the Premises shall be performed in accordance with all applicable Requirements and receive the necessary regulatory department sign offs. Provided that Landlord does not incur any out-of-pocket cost (other than any such costs for which Tenant agrees to assume a reimbursement obligation), Landlord shall make good faith efforts to cooperate with Tenant in Tenant's efforts to obtain any necessary regulatory department sign offs. Notwithstanding the above, provided the applicable Requirement specifically allows for challenge or deferral, Tenant shall have the right to so challenge and defer compliance with such Requirement in accordance with the terms thereof, if no dangerous or hazardous condition then exists or would be caused or lien would be created by such deferral and Tenant complies with the reasonable requirements of Landlord regarding the Hazardous Substances at issue. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this Section 8.04, except in the event of an emergency, Tenant shall submit or cause to be submitted to Landlord a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. Tenant shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide Landlord with an updated schedule.

(c) Tenant shall defend, indemnify and save the Indemnitees harmless from and against any and all Hazardous Substances in the manner provided in Article 23.

(d) Tenant shall comply with all applicable Environmental Laws and Requirements concerning any Hazardous Substance that Tenant or other occupant(s) of the Premises produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Premises or transports from the Premises. Tenant shall also comply with all applicable federal, state, and local laws related to the health and safety of its employees. Tenant shall use Commercially Reasonable Efforts to cause the Premises to be kept free and clear of any liens imposed pursuant

to such laws (subject to Tenant's right to contest any such liens). Tenant shall conduct and complete, at its or their sole cost and expense, all investigations, studies, sampling and testing, and take all remedial actions required by applicable environmental laws necessary to clean up and remove from the Premises, all Hazardous Substances present in violation of applicable Environmental Laws and applicable Requirements.

Section 8.05 No Representations or Warranty by Landlord.

(a) Neither Landlord nor Lease Administrator has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord nor Lease Administrator has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor Lease Administrator, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and Lease Administrator, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

ARTICLE 9
EASEMENTS

Section 9.01 Access to Facilities. Landlord hereby reserves for itself and Lease Administrator, and their respective officers, employees, agents, servants and representatives, a non-exclusive easement for ingress and egress to, from and over the Premises for the following purposes: (i) to maintain, replace and replace existing municipal facilities located within the Premises, if any; (ii) to maintain its fire communication facilities, sewers, water mains and street sub-surface below the Premises, if any; (iii) as necessary, to access the bulkhead area and the Pier, if any, that are adjacent to the Premises; and (iv) to maintain that certain Comfort Station as marked on Exhibit A to the standards described in Exhibit J. Access to the aforesaid easement areas shall be in Landlord's proprietary capacity and Landlord, including but not limited to when acting by and through DPR, and Lease Administrator shall have the right to enter upon the Premises with workers, materials and equipment to construct, reconstruct, lay, relay, maintain and inspect the facilities in or adjacent to the Premise, which entry shall be at reasonable times and upon reasonable prior written notice to Tenant (except in the case of emergencies in which instance no notice is necessary) from Landlord. Landlord shall (x) take reasonable steps to minimize interference with Tenant's and any Subtenant's operations when accessing the Premises pursuant to this Section 9.01, (y) comply with Tenant's reasonable site safety protocols and (z) to the extent reasonably possible, shall not cause Tenant to move or modify any of the Improvements except in exigent circumstances. Landlord shall as promptly as practicable reasonably repair or cause to be repaired any damage caused by Landlord or Lease Administrator from the exercise of its rights hereunder and Landlord or another party reasonably acceptable to Tenant shall indemnify Tenant against all damages claimed by Tenant or any third party in

such Security Deposit, except such portion thereof as shall be equal to one per cent (1%) per annum (or such higher percentage as Landlord may from time to time be lawfully entitled to retain), which percentage shall belong to and be the sole property of Landlord and which Landlord or Lease Administrator may withdraw from time to time and retain. The obligation to pay any taxes related to or affecting any interest earned on such Security Deposit (except as to that portion thereof which belongs to Landlord) shall be the sole responsibility of Tenant and Tenant hereby agrees to pay same and to forever indemnify and save harmless Landlord and Lease Administrator in respect thereof. Tenant shall, within fifteen (15) days after demand, furnish Lease Administrator or its agent with a tax identification number for use in respect of such deposit.

Section 6.03. Without limiting their respective rights and remedies hereunder or at law or in equity, and after expiration of any applicable notice and cure periods provided for herein for a Default or Event of Default, Landlord or Lease Administrator may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Rental or any other sum payable by Tenant hereunder when due and payable or the failure of Tenant to perform when due any other term, covenant or condition of this Lease, or to satisfy any liability incurred by Tenant to Landlord and Lease Administrator under this Lease, provided that the application of any Security Deposit proceeds to the cure of any such Default or Event of Default hereunder shall not be deemed to have cured such Default or Event of Default unless the entire outstanding amount due or damages suffered by Landlord and Lease Administrator is paid in full. Tenant agrees that when the Security Deposit or any portion thereof is used or applied by Landlord or Lease Administrator as aforesaid, Tenant shall, within thirty (30) days after notice and/or demand by Landlord, deposit with Landlord such additional amounts (by regular check subject to collection) sufficient to restore the Security Deposit to its amount prior to such use or application.

Section 6.04. If Tenant shall comply with all of the terms of this Lease, the Security Deposit shall be returned to Tenant within sixty (60) days after the Expiration Date of this Lease, together with interest accrued thereon as adjusted in accordance with this Article. If, on the Expiration Date, an Event of Default shall then exist, Landlord shall be entitled to retain all or any portion of such security to the extent of any damages suffered by Landlord by reason of such Event of Default, and to which Landlord is entitled pursuant to the terms of this Lease. Nothing in this paragraph shall be construed to limit Tenant's liability hereunder to the amount of the Security Deposit.

ARTICLE 7

USE

Section 7.01. Tenant shall use and occupy the Premises to operate a surface-level, no-fee parking lot ("**Parking Lot**") solely for the use of and by its tenants, employees, guests and invitees ("**Project**"), and for no other use or purpose without the Landlord's prior written consent to be given or withheld in Landlord's sole discretion. Tenant will not otherwise hold the Parking Lot open for use by the general public nor collect any rate or charge for the parking of a motor vehicle on the Premises. Failure to be in conformity with the provisions of this Article shall constitute an Event of Default under this Lease.

Section 7.02. Tenant's use of the Premises shall be in complete conformity with all applicable Requirements. This Lease does not grant any permission, license or authority for the conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term, at its sole cost and expense, all licenses and permits required by any Governmental Authority for the proper and lawful operation of a Parking Lot at the Premises.

Section 7.03. Tenant covenants that no foundation work will be performed at the Premises, and Tenant shall not use or occupy the Premises or suffer or permit the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or in any way in violation of this Lease, or in any way that may constitute a public or private nuisance, or in such manner as may make void or voidable any insurance then required to be carried under Article 9 hereof. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including, if necessary, the removal from the Premises of any invitees using any portion of the Premises for such unlawful or illegal business, use or purpose. Tenant shall comply with any lawful direction by any Governmental Authority with respect to the use of the Premises or to the abatement of nuisance or with respect to conditions which have been created by or at the instance of Tenant or required by reason of a breach of any of Tenant's covenants or agreements hereunder.

Section 7.04. Neither Landlord nor Lease Administrator or any of their respective employees, representatives or designees has made any representations with respect to the Premises or the Project, except as expressly provided in this Lease. Tenant is fully familiar with the physical condition of the Premises in connection with its use under the Parking Permit, and Tenant agrees that the Premises are in satisfactory condition, subject to Section 2.01(c) hereof. Tenant shall be solely responsible for providing security at the Premises, including any lighting for the Parking Lot, and the same shall be at no cost or expense to Landlord or Lease Administrator.

ARTICLE 8

EASEMENTS

Section 8.01. Landlord, hereby reserves for itself and Lease Administrator, and their respective officers, employees, agents, servants, representatives and invitees, an easement for ingress and egress to, from and over the Premises for the following purposes: (i) to inspect, maintain, replace and repair existing municipal facilities located within the Premises, if any; (ii) to maintain its fire communications facilities, sewers, water mains and street sub-surface below the Premises, if any; and (iii) as necessary, to access the bulkhead area and the Pier, if any, that are part of the Premises or adjacent to the Premises. Access to the aforesaid easement areas shall be at reasonable times and upon reasonable prior written notice to Tenant (except in the case of emergencies in which instance no notice is necessary) from Landlord.

Section 8.02. Landlord and Lease Administrator and their respective designees shall have the right at all times to enter upon the Premises with workers, materials and equipment to construct, reconstruct, lay, relay, maintain, operate and inspect Landlord's and/or Lease Administrator's facilities in or adjacent to the Premises. Landlord and Lease Administrator shall use

at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article 22 shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 41.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
REQUIRED AND PROHIBITED USES

Section 23.1 Use and Operating Requirements. Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with this Lease, and otherwise in accordance with this Section 23.1, is of paramount importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article 23, after the expiration of applicable notice and Cure Periods, shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project, including without limitation as follows:

(a) Throughout the Term, Tenant shall continuously, on a daily basis and in accordance with Section 23.1(c)(i) hereof, use the Premises and cause the Premises to be used primarily for the conduct of recreation within the Recreational Facility of the Project and the conduct of community uses in the Auditorium Facility and the Community Facility portions of the Project, each as more fully described in the Project Plan attached as Exhibit A-2, (the uses under this clause (a) and Exhibit A-2, collectively, the "Required Uses" and each individually, a "Required Use"), and shall also use the Premises as Co-Gen Facility (the "Accessory Use").

(b) Tenant shall either (i) sublease the Commercial Space in accordance with the Community Facility subleasing requirements set forth in Exhibit O-1, or (ii) sublease the Commercial Space to small businesses having gross revenues of up to $3,000,000, as provided for in Section 39.12(xix) of the Lease, provided that such small businesses deliver products and/or services that either (x) produce a direct and positive impact on the quality of life of local residents and/or (y) are complementary to the Project's then existing recreation and/or community uses. To the extent that Tenant subleases the Commercial Space pursuant to the provisions of subsection

(ii) herein, there shall be no restriction on the amount of rent that Tenant may charge subtenants of the Commercial Space.

(c) Operation of the Recreation Facility, Auditorium Facility, and Community Facility.

i. At a minimum, Operator shall cause the Recreation Facility to operate seven (7) days per week, Monday through Friday 7:00am to 9:00pm ("Weekday Operating Hours") and Saturday through Sunday 8:00am to 6:00pm ("Weekend Operating Hours"), and the Auditorium Facility shall be available seven (7) days a week, unless such times are proposed to be modified by Operator and such modifications are approved by Lease Administrator. The Recreation Facility and Auditorium Facility may operate during additional hours and may elect to modify operating hours during (x) holiday periods, (y) weather-related events or (z) periods of substantial construction that require shut-down ("Shut-down Events"). Tenant shall notify Lease Administrator of any Shut-down Events within five (5) days after the date of the occurrence. Offices sub-leased to organizations other than the Operator are not subject to this Section 23.1(c)(i). During all other periods, Tenant may elect to modify the operating hours of the Auditorium Facility and the Recreational Facility upon request to Landlord, which request shall include an explanation for the modification and shall not be unreasonably withheld by Landlord.

ii. The Recreational Facility shall include fitness rooms containing fitness and exercise equipment typically found in commercial gyms. The fitness rooms will be open at all hours that the Recreational Facility is open.

iii. Tenant shall reserve fifty percent (50%) of available memberships to the Recreational Facility, or a minimum of two hundred and fifty (250) memberships, whichever is greater, for the local community and/or families in need of financial assistance (the "Discounted Recreational Memberships"). Individual Discounted Recreational Memberships shall initially cost ten dollars ($10) per month, while families shall be charged ten dollars ($10) per month for each adult and eight dollars ($8) per month for each child under sixteen (16) years old. The cost of Discounted Recreational Memberships shall not increase by more than fifteen percent (15%) every five (5) years.

iv. In addition to the requirements under Sections 13 and 14 of the Lease, if Tenant seeks alterations to the design of the Recreational Facility, Auditorium Facility, and the Community Facility and/or associated programming, Tenant shall make reasonable efforts to incorporate community feedback, including without limitation, any direction received from the Community Advisory Committee.

(d) Discounted Benefits. Tenant shall provide, or cause to be provided through Subtenants and/or licensees, discounted benefits ("Discounted Benefits") to a range of individuals and organizations. Tenant shall make good faith efforts to ensure this range of beneficiaries reflects the needs and desires of the community. Tenant shall cause Discounted Benefits to be delivered through a combination of four methods (provided that Discounted Services, Discounted Individual

Access, and Discounted Facility Use are not double or triple counted as Discounted Benefits for the same event):

i. "Discounted Individual Access" by charging individual users below market fees (or no fee) to access the Recreational Facility, the Auditorium Facility and the Community Facility;

ii. "Discounted Facility Use" by charging below-market hourly or daily fees (or no fee) to rent out facilities within the Recreational Facility, the Auditorium Facility and/or the Community Facility, for community, educational, recreational, fitness, wellness, health, or economic development purposes, provided that in each such case the beneficiary of any discount is not an affiliate of Tenant, its Subtenants, or its licensees. Notwithstanding the foregoing, the provision of free access to the Recreational Facility, the Auditorium Facility and/or the Community Facility to the public at large (e.g. through the provision of publicly accessible open-court time, etc.) shall only be considered a Discounted Facility Use if provided during the hours of 7:00 AM and 9:00 PM ("Discounted Benefits Hours") or, if Tenant regularly operates the Recreational Facility, the Auditorium Facility and/or the Community Facility during hours in excess of the Discounted Benefits Hours, then, by mutual agreement of Landlord and Tenant, the Discounted Benefits Hours may be extended to match the actual hours of operation.

iii. "Discounted Space Lease" by charging below-market monthly rent of space within the Recreational Facility, the Auditorium Facility or the Community Facility, provided that in each such case the beneficiary of any discount is not an affiliate of Tenant; and

iv. "Discounted Services" by providing recreational, fitness, wellness, health, educational, economic empowerment, and similar services (e.g. individual sports instruction, group swim lessons, etc.) to individuals and families at no charge or below-market rates.

(e) Calculation of Discounted Benefits. Discounted Benefits shall be calculated on an annual basis as follows:

i. When Tenant charges a market rate at the Project (the "Project Standard Rate") as well as a reduced rate for an equivalent service at the Project (the "Project Discount Rate"), the Discounted Benefit shall equal the product of (i) the number of direct financial beneficiaries, and (ii) the difference between the Project Standard Rate and the Project Discount Rate.

ii. When Tenant charges a Project Discount Rate but not a Project Standard Rate, Lease Administrator and Tenant shall establish an equivalent benchmark (the "Market Standard Rate") based on the average of at least three (3) comparable rates charged for comparable services at comparable facilities located within three (3) miles of the Project. The Discounted Benefit shall equal the product of (i) the number of direct financial beneficiaries and (ii) the difference between the Market Standard Rate and the Project Discount Rate. Commencing on the one year anniversary of the first day of the first full Lease Year following Substantial Completion, and on each annual anniversary thereafter during the Term, every Market Standard

Rate shall be increased by three percent (3%) from that of the previous year. Additionally, every Market Standard Rate shall be recalculated during any reappraisal pursuant to the process outlined in Section 35.1 of this Lease, but for purposes of determining the Operating Agreement Credit shall never be less than the initial Market Rate Standard.

iii. When Tenant charges a Project Discount Rate but not a Project Standard Rate and fewer than three (3) equivalent facilities are located within three (3) miles of the Project, Lease Administrator and Lessee will use good faith efforts to establish an equivalent benchmark consisting of an average of at least three rates charged for comparable services at comparable facilities in comparable neighborhood.

iv. When Lessee charges a Project Discount Rate but not a Project Standard Rate and fewer than three (3) comparable facilities in comparable neighborhoods provide equivalent services, Lease Administrator and Lessee will use good faith efforts to establish an equivalent benchmark, which may be based in part on the reasonable net cost of the services and/or programming.

v. When Tenant charges a Project Standard Rate but not a Project Discount Rate, then Tenant has not delivered any Discounted Benefits in that case.

(f) Community Advisory Committee. On or before the Effective Date hereof, Tenant shall establish, or cause to be established, an advisory committee (the "Community Advisory Committee") which shall be charged, *inter alia*, with advising Tenant on the development and programming of the (i) Recreational Facility, (ii) Auditorium Facility, and (iii) Community Facility during the Term of the Lease. The Community Advisory Committee shall at all times conform to the requirements set forth in Exhibit S hereof.

(g) Tenant shall use good faith efforts to (i) showcase art and culture from the local community at the Premises, and (ii) incorporate the arts into programming at the Premises.

(h) For each Lease Year, Tenant shall, not later than sixty (60) days following the end of such Lease Year, certify that it complied with Section 23.1(a), Section 23.1(b), Section 23.1(c), Section 23.1(d), Section 23.1(e), Section 23.1(f), Section 23.1(g) and Section 23.1(h) for such Lease Year or the applicable portion thereof. If, at any time during the Term, Tenant shall be unable to use the Premises in full compliance with Section 23.1(a), Section 23.1(b), Section 23.1(c), Section 23.1(d), Section 23.1(e), Section 23.1(f), Section 23.1(g) and/or Section 23.1(h), Tenant shall notify Lease Administrator thereof immediately.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises or any part thereof to be used or occupied for any purpose other than the Required Use or Accessory Use. Without limiting the generality of the preceding sentence, Tenant shall not use or either permit or suffer the Premises to be used for any unlawful or illegal business, or for any religious worship, use for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or

purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

Section 23.3 Financial Covenants. Tenant acknowledges and agrees that the success of the Project depends upon long-term uninterrupted capital investment in the Premises. As such from the Effective Date through the final day of the third full Lease Year after Substantial Completion, Tenant shall, for each Lease Year, reinvest all annual Project Revenue in excess of annual Operating Expense (the resulting amount, if any, the "Annual Net Income Surplus") back into the Premises in the form of capital improvements, capital maintenance, capital repair and replacement, programmatic and operational support, and to the extent the before mentioned obligations are completed or fully funded, pay such funds to Lease Administrator as Additional Rent to be held in a reserve account for any of the foregoing ("Administrator Reserve Account"). Notwithstanding the foregoing, no amount of Annual Net Income Surplus shall be used for costs related to the CoGen Facility. From the first day of the fourth full Lease Year after Substantial Completion through the Expiration Date, the Annual Net Income Surplus for each Lease Year (if any) shall be applied in the following manner: (a) one hundred percent (100%) as Additional Rent to the Administrator Reserve Account until such account is funded to one hundred thousand dollars ($100,000), (b) once the Administrator Reserve Account reaches a balance of one hundred thousand dollars ($100,000), fifty percent (50%) shall be funded as Additional Rent to the Administrator Reserve Account and the remaining fifty percent (50%) shall be funded as follows: first to Lease Administrator as payment for any Base Rent or Additional Rent (including interest thereupon) that was deferred in accordance with Section 3.2 and Section 3.3 hereof (the "Eligible Lease Administrator Use"), with any remainder available as a distribution to the member(s) of Tenant, up to the amount set forth in Exhibit U (the "Eligible Tenant Use"), (c) once the Administrator Reserve Account reaches a balance of five hundred thousand dollars ($500,000), twenty-five percent (25%) shall be funded as Additional Rent to the Administrator Reserve Account and seventy-five percent (75%) shall be funded as follows: first to Lease Administrator as Additional Rent for the Eligible Lease Administrator Use, with any remainder to Tenant for the Eligible Tenant Use, and (d) once the Administrator Reserve Account reaches a balance of one million dollars ($1,000,000), one hundred percent (100%) shall be funded as follows: first to Lease Administrator as Additional Rent for the Eligible Lease Administrator Use, with any remainder to Tenant for the Eligible Tenant Use. Notwithstanding the foregoing, after Tenant has made distributions of Annual Net Surplus Income in an amount equal to the amount set forth in Exhibit U, one hundred percent (100%) of Annual Net Income Surplus shall be paid as Additional Rent and funded to the Administrator Reserve Account. Except as explicitly provided above, at no time shall Tenant distribute, or allow the distribution of, any profits, dividends or other such distributions, directly or indirectly, to Tenant or any other affiliated or unaffiliated entity. Beginning on the first day of the ninth full Lease Year after Substantial Completion, such threshold amounts (other than those in Exhibit U) set forth herein shall increase at a rate of three percent (3%) per annum.

Section 23.4 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirements for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

ARTICLE XXIV
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Events of Default. Each of the following events, after the applicable notice and Cure Periods as set forth in Section 24.2 hereof, shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rent required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to achieve Construction Commencement of the Project on or before the date provided for in Section 13.1(a) (subject to Unavoidable Delays) and such failure shall continue for a period of twenty (20) days after notice thereof from Landlord to Tenant;

(c) if Tenant shall fail to Substantially Complete the Construction of the Project on or before the Scheduled Construction Completion Date for the Project (subject to Unavoidable Delays) and in substantial accordance with the Approved Plans and Specifications for the Project, and such failure shall continue for a period of twenty (20) days after notice thereof from Landlord to Tenant;

(d) if Tenant shall fail for two consecutive Lease Years to deliver the Minimum Total Required Discounted Benefits required pursuant to Section 3.2(e) hereof;

(e) if Tenant shall enter into an Assignment, Transfer, Sublease, Mortgage, or other disposition or encumbrance without compliance with the provisions of this Lease and such Assignment, Transfer Sublease, Mortgage, or other disposition or encumbrance shall not be canceled within sixt (60) days after Landlord's notice thereof to Tenant;

(f) if Tenant shall fail to maintain the insurance required to be maintained by Tenant pursuant to Article 7;

(g) if Tenant shall fail to achieve Final Completion within six (6) months of Substantial Completion (subject to Unavoidable Delays);

(h) if Tenant shall fail to use the Premises in accordance with Section 23.1(a), Section 23.1(b) or Section 23.1(c) and such failure shall continue for a period of sixty (60) days after Landlord's notice thereof to Tenant specifying such failure;

ARTICLE XV
CAPITAL IMPROVEMENTS

Section 15.1 Capital Improvements; Tenant's Right to Make Capital Improvements.

(a) Tenant shall have the right to make a Capital Improvement after Substantial Completion of the Project as long as Tenant shall comply with the applicable provisions of Article 13 hereof and with the requirements of this Article 15. Tenant shall obtain the consent of Landlord for any Capital Improvement, which consent shall not be unreasonably withheld, delayed or conditioned. At least thirty (30) days before Tenant's commencement of any such Capital Improvement, Tenant shall provide Landlord with:

1. if applicable to the Capital Improvement work to be undertaken, complete plans and specifications for the proposed Capital Improvement prepared by the Architect. All plans and specifications submitted pursuant to this Section shall be reviewed by Landlord in accordance with the provisions of Section 13.1(d) hereof as if such plans and specifications were a modification of the Approved Plans and Specifications (and, for purposes of Article 13, any such plans and specifications shall constitute "Plans and Specifications");

2. a copy of a contract made with a reputable and responsible contractor, providing for the completion of the Capital Improvement in accordance with the Approved Plans and Specifications therefor;

3. evidence of Tenant's ability to pay for such Capital Improvement, including the proceeds of any loan or the Maintenance Reserve; and

4. funds sufficient to reimburse Landlord for the reasonable fees and expenses of any registered architect or licensed professional engineer selected by Landlord to review the plans and specifications therefor and to inspect the Capital Improvement on behalf of Landlord; provided, that if such review is also required by a Recognized Mortgagee, Landlord shall rely on the architect or engineer selected by the Recognized Mortgagee.

Section 15.2 Completed Capital Improvements Shall Not Reduce Value of Premises. All Capital Improvements, when completed, shall be of a character that will not materially reduce the value of the Premises below its value immediately before commencement of such Capital Improvement.

Section 15.3 "Capital Improvement" means (i) a change, alteration, demolition, construction, reconstruction or addition to the Premises in connection with the building components as mutually determined in good faith by the Landlord and Tenant, or (ii) work that would change, in any material respect, any plazas, open space or the exterior of the Project, or would change, in any material respect, the height, bulk or setback of the Project from the height, bulk or setback of the Project existing immediately before the commencement of the Capital Improvement. Capital Improvements shall not include the Construction of the Project, any Restoration, any interior alteration made in connection with the initial occupancy under a Sublease, or any tenant or Subtenant fit-out work.

ARTICLE XVI
REQUIREMENTS OF GOVERNMENTAL AUTHORITIES

Section 16.1 Requirements.

(a) Obligation to Comply. Subject to the provisions of Article 34 hereof, in connection with any Construction Work, maintenance, management, use and operation of the Premises and Tenant's performance of its obligations hereunder, Tenant shall comply promptly with all Requirements, without regard to the nature of the work required to be done, whether extraordinary or ordinary, and whether requiring the removal of any encroachment, or affecting the maintenance, use or occupancy of the Premises, or involving or requiring any structural changes or additions in or to the Premises, and regardless of whether such changes or additions are required by reason of any particular use to which the Premises, or any part thereof, may be put.

(b) "Requirements" means:

1. any and all laws, rules, regulations, orders, ordinances, statutes, codes, executive orders and requirements of all Governmental Authorities applicable to the Premises or any street, road, avenue or sidewalk comprising a part of, or immediately adjacent to, the Premises or any vault in, or under the Premises (including, without limitation, the Building Code of the Landlord and the laws, rules, regulations, orders, ordinances, statutes, codes and requirements of any applicable Fire Rating Bureau or other body exercising similar functions);

2. the certificate or certificates of occupancy issued for the Project as then in force;

3. the provisions of applicable resolutions and/or special permits of the City Planning Commission; and

4. the requirements of any applicable Urban Renewal Plan.

ARTICLE XVII
DISCHARGE OF LIENS; BONDS

Section 17.1 Creation of Liens. Tenant shall neither create nor cause to be created (a) any lien, encumbrance or charge upon this Lease, the leasehold estate created hereby, the income therefrom or the Premises or any part thereof, (b) any lien, encumbrance or charge upon any assets of, or funds appropriated to, Landlord, or (c) any other matter or thing whereby the estate, rights or interest of Landlord in and to the Premises or any part thereof might be impaired. Notwithstanding the above, Tenant shall have the right to execute Recognized Mortgages and related security documents and Subleases as provided by, and in accordance with, the provisions of this Lease.

Section 17.2 Discharge of Liens. If any mechanic's, laborer's, vendor's, materialman's or similar statutory lien is filed against the Premises or any part thereof, or if any public improvement lien created, or caused or suffered to be created by Tenant shall be filed against any assets of, or funds appropriated to, Landlord, Tenant shall, within thirty (30) days after Tenant

undesirable in connection with the operation of the Premises. To the extent the removal of any trade fixtures and Equipment causes damage to the Project, Tenant shall promptly repair such damage.

Section 14.3 Free of Dirt, Snow, Etc. Tenant shall keep clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances the sidewalks, grounds, parking facilities, plazas, common areas, vaults, chutes, sidewalk hoists, railings, gutters, alleys, curbs or any other space, in front of, or adjacent to, the Premises.

Section 14.4 No Obligation to Supply Utilities. Landlord shall not be required to supply any facilities, services or utilities whatsoever to the Premises and shall not have any duty or obligation to make any alteration, change, improvement, replacement, Restoration or repair to the Project, and Tenant assumes the full and sole responsibility for the condition, operation, alteration, change, improvement, replacement, Restoration, repair, maintenance and management of the Premises, including but not limited to the rerouting of existing utility lines.

Section 14.5 Window Cleaning. Tenant shall not clean nor require, permit, suffer nor allow any window in the Project to be cleaned from the outside in violation of Section 202 of the Labor Law or of the rules of any Governmental Authority.

Section 14.6 Tree Installation, Maintenance and, Replacement. Within six (6) months of Construction Completion, Tenant shall install tree pits in the sidewalk surrounding Premises, where such tree pits do not already exist and where installation does not adversely affect existing infrastructure. Within six (6) months of Construction Completion, tenant shall cause all tree pits in the sidewalk surround the Premises to be bordered by tree-pit guards. During the Term, Tenant shall maintain street trees, tree-pit guards, and tree pits in good condition, making replacements when necessary. Tenant shall carry out all obligations set forth in this Section in accordance with the standards of the New York City Department of Parks and Recreation, and any other federal, state and local law or regulations.

ARTICLE XV
CAPITAL IMPROVEMENTS

Section 15.1 Capital Improvements; Tenant's Right to Make Capital Improvements.

(a) Tenant shall have the right to make a Capital Improvement after Substantial Completion of the Project as long as Tenant shall comply with the applicable provisions of Article 13 hereof and with the requirements of this Article 15. Tenant shall obtain the consent of Landlord for any Capital Improvement, which consent shall not be unreasonably withheld, delayed or conditioned. At least thirty (30) days before Tenant's commencement of any such Capital Improvement, Tenant shall provide Landlord with:

1. if applicable to the Capital Improvement work to be undertaken, complete plans and specifications for the proposed Capital Improvement prepared by the Architect. All plans and specifications submitted pursuant to this Section shall be reviewed by Landlord in accordance with the provisions of Section 13.1(d) hereof as if such plans and specifications were

a modification of the Approved Plans and Specifications (and, for purposes of Article 13, any such plans and specifications shall constitute "Plans and Specifications");

2. a copy of a contract made with a reputable and responsible contractor, providing for the completion of the Capital Improvement in accordance with the Approved Plans and Specifications therefor;

3. evidence of Tenant's ability to pay for such Capital Improvement, including the proceeds of any loan or the Maintenance Reserve; and

4. funds sufficient to reimburse Landlord for the reasonable fees and expenses of any registered architect or licensed professional engineer selected by Landlord to review the plans and specifications therefor and to inspect the Capital Improvement on behalf of Landlord; provided, that if such review is also required by a Recognized Mortgagee, Landlord shall rely on the architect or engineer selected by the Recognized Mortgagee.

Section 15.2 Completed Capital Improvements Shall Not Reduce Value of Premises. All Capital Improvements, when completed, shall be of a character that will not materially reduce the value of the Premises below its value immediately before commencement of such Capital Improvement.

Section 15.3 "Capital Improvement" means (i) a change, alteration, demolition, construction, reconstruction or addition to the Premises in connection with the building components as mutually determined in good faith by the Landlord and Tenant, or (ii) work that would change, in any material respect, any plazas, open space or the exterior of the Project, or would change, in any material respect, the height, bulk or setback of the Project from the height, bulk or setback of the Project existing immediately before the commencement of the Capital Improvement. Capital Improvements shall not include the Construction of the Project, any Restoration, any interior alteration made in connection with the initial occupancy under a Sublease, or any tenant or Subtenant fit-out work.

ARTICLE XVI
REQUIREMENTS OF GOVERNMENTAL AUTHORITIES

Section 16.1 Requirements.

(a) Obligation to Comply. Subject to the provisions of Article 34 hereof, in connection with any Construction Work, maintenance, management, use and operation of the Premises and Tenant's performance of its obligations hereunder, Tenant shall comply promptly with all Requirements, without regard to the nature of the work required to be done, whether extraordinary or ordinary, and whether requiring the removal of any encroachment, or affecting the maintenance, use or occupancy of the Premises, or involving or requiring any structural changes or additions in or to the Premises, and regardless of whether such changes or additions are required by reason of any particular use to which the Premises, or any part thereof, may be put.

(b) "Requirements" means:

ARTICLE 23.
PERMITTED AND PROHIBITED USES; SPECIAL USE REQUIREMENTS

Section 23.1 Use and Operating Requirements.

(a) Tenant shall use and occupy the Premises (except for the License Area), or cause the Premises (except for the License Area) to be used and occupied, as provided in this Lease for the sole purpose of constructing and operating a Community Space and Accessory Parking, with respect to each portion of the Premises so indicated for such use in Exhibit K, and uses accessory thereto (the "Lot 2002 Permitted Uses"). In furtherance of, and not in limitation of, the foregoing, Tenant shall use and operate the Premises (Except for the License Area) continuously and without interruption in accordance with the Project Plan subject to reasonable periods of closure for (i) Restoration, (ii) refurbishment and refitting of the Premises and (iii) Alterations. Licensee may use the Licensed Area for surface parking (as specifically identified and described in Exhibit K-1) and no other purpose (the "Lot 30 Permitted Uses", and together with the Lot 2002 Permitted Uses, the "Permitted Uses"). Licensee may landscape and pave the License Area, there shall be no improvements or alterations by the Licensee on the License Area, except as specifically authorized by the Landlord. Tenant shall not use the Premises, or permit the Premises to be used, for any purpose other than the Permitted Uses, except with the prior written approval of Landlord, to be given at Landlord's sole and absolute discretion.

(b) For purpose of this Lease:

"Community Space" means a community and recreation facility that is open to the general public (which may include a membership requirement, provided that membership is available to the general public on a non-discriminatory basis, subject to Tenant's standard policies), which may include facilities for fitness-related activities, the arts, education and other similar activities).

"Accessory Parking" means a surface parking lot located on the premises, sufficient in size to accommodate approximately 150 vehicles, which conforms in all material respects with the provisions of Exhibit K, Exhibit K-1 and Exhibit N.

(c) Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Tenant shall make reasonable and good faith efforts to cause each component of the Project to be occupied in the amounts of space and within the time frames set forth in Exhibit N and otherwise to comply with the provisions of Exhibit N.

(d) Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Article 23 is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article 23 shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article 23.

Section 23.2 Prohibited Uses. Tenant shall not use or occupy the Premises, and neither permit nor suffer the Premises, or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose or for any purpose, or in any way in violation of the provisions of Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately upon its discovery of any such unlawful or illegal business, use or purpose, or use or occupation in violation of Section 23.1 or Article 16 hereof, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance of such business or use, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of Section 23.1 or Article 16 hereof. The provisions of this Section 23.2 shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

Section 23.3 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 23.4 Other Commitments.

(a) HireNYC Program: Tenant shall comply with the HireNYC requirements set forth in Exhibit J-1, J-2 and J-3 to this Lease.

(b) Living Wage. Tenant covenants to perform, or cause to be performed, all of the obligations set forth in Exhibit O attached hereto and incorporated herein.

Section 23.5 Project Report. Within sixty (60) days following the end of each calendar year during the Term, or at such other time as Landlord or Lease Administrator may reasonably request from time to time (but not more than twice during any twelve month period) upon not less than sixty (60) days' prior written notice, Tenant shall deliver a written report to Lease Administrator in form reasonably acceptable to Lease Administrator (the "Project Report") setting forth the status of the Project, and the manner in which Tenant is complying with the Project Commitments and Permitted Uses as of the end of the immediately preceding calendar year (or, in the case of a Project Report otherwise requested by Landlord or Lease Administrator, as of the date of such request). The Project Report shall, among other things, contain Tenant's certification as to whether (i) the Premises are in compliance in all material respects with the applicable Project Commitments, Project Plan, and the Permitted Uses, (ii) the Premises are in compliance in all material respects with the use and operating requirements set for above, and (iii) in Tenant's reasonable and good faith judgment, Tenant anticipates that Tenant will be able to comply timely in all material respects with any Project Commitments and/or use and operating requirements set for above to be performed in the upcoming Calendar Year. In the event that Tenant shall be unable to provide the required certifications, the Project Report shall identify any areas of non-compliance with specificity, and

explain the reasons for such non-compliance (a "Non-Compliance Notice"). Landlord shall endeavor to review each Project Report and submit any questions thereto or request any additional or supporting information that it requires within thirty (30) days following Landlord's receipt of such Project Report. Tenant shall respond to any questions received or any request for additional or supporting information within thirty (30) days following Tenant's receipt of the Landlord's inquiry.

ARTICLE 24.
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental (including, without limitation, any payment of Base Rent, PILOT or Additional Rent), utility charges, insurance premiums or Impositions as required hereunder or any other amount required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant;

(b) if Tenant shall fail to Commence Initial Construction Work on the Land on or before ninety (90) days following the Effective Date (subject to Unavoidable Delays) and such failure shall continue for a period of forty-five (45) days after notice thereof from Landlord specifying such failure;

(c) if Tenant shall fail to Substantially Complete the Initial Construction Work on or before the Scheduled Substantial Completion Date (subject to Unavoidable Delays) or if Tenant shall fail to Finally Complete the Initial Construction Work on or before the Scheduled Final Completion Date (subject to Unavoidable Delays)..

(d) if Tenant shall enter into an Assignment, Transfer or Sublease without compliance with the provisions of this Lease and such Assignment, Transfer or Sublease shall not be made to comply with the provisions of this Lease or canceled within thirty (30) days after Landlord's notice thereof to Tenant;

(e) if Tenant shall fail to maintain the insurance required to be maintained by Tenant pursuant to Article 7, and such failure continues for ten (10) Business Days after Landlord's notice thereof to Tenant specifying such failure;

(f) if Tenant shall fail to respond to and adequately rectify any of the conditions giving rise to any violation(s) issued by any Governmental Authority in connection with the use and/or occupancy of the Premises and/or Construction Work and such failure shall continue for a period of twenty (20) days after notice thereof, unless such conditions cannot be rectified within such twenty (20) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall commence the rectification of such conditions within such twenty (20) day period and shall diligently and continuously prosecute the same to completion within a reasonable period which shall not exceed one hundred and fifty (150) days from Landlord's initial notice, and provided further, that Tenant shall have the right, prior to the end of such 150-day

expenses incurred by Landlord in connection therewith, shall be reimbursed by Tenant within twenty (20) days after Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 21.4 Right to Use Restoration/Deposited Funds. In the event that a casualty or a condemnation affecting a portion or all of the Premises occurs, and an Event of Default has occurred as a result of Tenant's failure to undertake its obligations under this Lease to restore the Premises, if Landlord subsequently elects to undertake or complete any Construction Work pursuant to Article 12 hereof, upon 45 days' notice to Tenant or, if such time is not practicable, a commercially reasonable period of time after the casualty and/or condemnation in question (and subject to the rights of any Recognized Mortgagee), (a) Tenant shall pay immediately, or cause to be paid immediately, to Landlord, all insurance proceeds that have been received by Tenant in connection with a casualty and/or proceeds of a condemnation award received in connection with a condemnation, reduced by (i) the costs reasonably incurred by Tenant in the collection of such proceeds and (ii) reasonable amounts actually incurred and paid by Tenant in connection with the Construction Work to restore the Premises as a result of the casualty and/or condemnation, and if such insurance proceeds and/or condemnation awards are insufficient to complete the Construction Work, Tenant, on Landlord's demand shall pay the deficiency to Lease Administrator, and (b) Lease Administrator shall pay all undisbursed moneys held by it to Landlord.

Section 21.5 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article 21 shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 21.6 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 40.8 hereof, Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE 22
PERMITTED AND PROHIBITED USES; SPECIAL USE REQUIREMENTS

Section 22.1 Use and Operating Requirements. Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with this Article 22 is of vital importance to Landlord, and a material inducement to Landlord in its agreeing to enter into this Lease, and that Tenant's failure to comply with the provisions set forth in this Article 22 shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the following use and operating requirements for the Project:

(a) Tenant shall use and occupy the Premises for the construction and the continuous, active and diligent operation of the Project. Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given at Landlord's sole and absolute discretion.

(b) The Project shall include the following components and Tenant shall comply with the following requirements:

(i) During the first twenty (25) years of the Initial Term, approximately 71,000 contiguous rentable square feet of space within the Premises (the "Flexible Office Space Component") shall be used by technology, creative or innovative companies that may have graduated from incubators, accelerators and/or co-working spaces or other short term, temporary or sublet spaces, and are seeking to expand into larger space at flexible terms (such companies shall be referred to as "Flexible Office Space Users"). The Flexible Office Space Component shall be operated in accordance with the following requirements by Tenant or by one or more Subtenants who enter into Subleases with Tenant pursuant to which they agree to operate all or any portion of the Flexible Office Space Component in accordance with this Section 22.1(b)(i) (in each case, a "Flexible Office Space Operator"):

(1) If a security deposit is required by any occupancy agreement with a Flexible Office Space User, the required security deposit shall be no greater than the lesser of (x) an amount equal to 25% of the total base rent to be paid by such Flexible Office Space User for the entire term of said agreement and (y) an amount equal to the total base rent to be paid by such Flexible Office Space User in a 12-month period. In addition to a security deposit, the such occupancy agreement may require a guaranty from a Flexible Office Space User, which can either be a limited, personal or corporate "good guy" guaranty that legally empowers the Flexible Office Space Operator to pursue remedies if an occupant of the space is in rent arrears and refuses to vacate the space, or such broader guaranty as shall be appropriate given the occupant's financial circumstances, it being understood and agreed, however, that guarantor's liability under any such broader guaranty shall be limited to an amount not to exceed the sum of the total base rent to be paid by such Flexible Office Space User in a 12-month period, the amounts incurred by the Flexible Office Space Operator in connection with the performance of tenant improvement work or any contribution towards tenant improvement work paid to such Flexible Office Space User and the value of any free rent provided to such Flexible Office Space User.

(2) Any occupancy agreements with Flexible Office Space Users shall have terms not shorter than 6 months and no longer than 5 years (but such term restrictions shall not apply to any Sublease with a Flexible Office Space Operator).

(3) No single Flexible Office Space User may occupy more than approximately 22,000 rentable square feet in the aggregate (but such size restriction shall not apply to any Sublease with a Flexible Office Space Operator).

(ii) During the first twenty (25) years of the Initial Term, approximately 10,000 contiguous rentable square feet within the Premises (the "Food Hall Component") shall be used by Food Hall Component Users (it being understood and agreed, however, that the Food Hall Component may be operated by one or more Subtenants who enter into Subleases with Tenant pursuant to which they agree to operate all or any portion of the Food Hall Component in accordance with this Section 22.1(b)(ii) (in each case, a "Food Hall Component Operator")). The term "Food Hall Component Users" means food retailers using and occupying portions of the Food Hall Component that meet the following criteria at the time such users enter into an occupancy agreement: (x) a user that does not occupy any other location within the area whose boundaries are described as follows: (A) to the North, East 19th Street, (B) to the South, East 9th Street, (C) to the East, 2nd Avenue and (D) to the West, University Place or Union Square West (it being understood and agreed that the operation of a so-called "pop up shop" in Union Square shall not be deemed to violate this location restriction); (y) a user that operates no more than 8 retail locations within the Borough of Manhattan; and (z) a user that operates no more than 50 retail locations nationwide at the time of signing an occupancy agreement with respect to the Premises. At least 25% of the "booths" within the Food Hall Component shall be reserved for use by first-time entrepreneurs or start-up companies operating for less than 4 years. During the first twenty (25) years of the Initial Term, the remaining retail space within the Building (approximately 20,000 square feet) shall be used and occupied by a either a food or non-food retail user that, at the time of execution of the applicable Sublease, (x) does not occupy any other location within 0.5 miles of the Premises, and (y) operates no more than 5 retail locations within the Borough of Manhattan.

(iii) During the first twenty (25) years of the Initial Term, approximately 44,000 rentable square feet within the Premises (the "Civic Hall Component") shall be used by one or more organizations whose primary objective is to support one or more of the Permitted Civic Hall Uses Civic Hall Users (each, a "Civic Hall User"). The parties acknowledge that Civic Hall Labs, Inc. ("Civic Hall Labs") has supported Landlord and Tenant's efforts to obtain the necessary approvals for the Project and that Tenant shall use commercially reasonable efforts to negotiate a Sublease with Civic Hall Labs for the Civic Hall Component or some portion thereof on terms that are satisfactory to both Tenant and Civic Hall Labs. If Tenant and Civic Hall Labs do not successfully enter into a Sublease for the Civic Hall Component, any proposed Civic Hall User (other than Civic Hall Labs or an affiliate of Civic Hall Labs) during the first fifteen (15) years of the Initial Term of the Lease shall be subject to Landlord's prior written approval thereof, such approval to be granted in Landlord's reasonable discretion. For the avoidance of doubt, in the event that Civic Hall Labs or an affiliate of Civic Hall Labs is not the primary Civic Hall User during the first fifteen (15) years of the Initial Term, any other primary Civic Hall User shall diligently undertake a program to activate the Civic Hall Component, including without limitation, the good faith marketing efforts contemplated below. For purposes hereof, the "Civic Hall Uses" shall mean: (A) incubators, accelerators, venture capital firms, seed capital firms, or angel investment firms with a focus on innovation, clean tech, smart cities, digital government services, or creative or growing local businesses, (B) incubators, accelerators, venture capital firms, seed capital firms, or angel investment firms with a focus on the tech industry, (C) shared workspace for social enterprises, creative businesses, tech industry or new or growing local businesses, (D) advocacy or public policy organizations that focus on diversity in tech, smart cities, clean tech, tech education/training, civic innovation, or other applications of technology for social good, (E) social innovation or philanthropic arms of companies with a focus on diversity in technology, smart cities, civic innovation, tech education/training or other applications of technology for social

good, (F) companies with a focus on digital services for government, education, or growing businesses, (G) university or other education-based programs with a focus on tech, smart cities, civic innovation, or data science, or (H) (x) any other use similar to those described above, or (y) any other user whose presence at the Premises supports civic innovation, diversity in tech or social entrepreneurship in the City of New York. In addition, the Civic Hall Component shall be operated in accordance with the following requirements:

(1) Tenant shall cause the Civic Hall User to make the rentable square feet contained in one (1) full floor within the Civic Hall Component available for each Community User Event(s), it being understood and agreed, however, that if the Person organizing any such Community User Event(s) does not require the entire full floor to satisfy the needs of such event, the Civic Hall User may utilize the remaining portion of such floor for any other purpose permitted under this Lease. A "Community User Event" is a gathering organized by a not-for-profit or governmental organization that are accessible to the public for free or reduced cost.

(2) The Civic Hall Component shall be available for Community User Events at least eight (8) times every three months, plus twenty (20) additional Community User Events during each Lease Year (for a total of fifty-two (52) Community User Events each Lease Year) with attendance limited only by the capacity of the component space dedicated for the Community User Event. The Civic Hall Component shall be available for Community User Events during similar hours to those during which the Civic Hall Component is offered for other events, it being understood and agreed that the Civic Hall User shall waive the base "space rental fee" customarily charged for other similar events in connection with the Community User Events described above, but that the Civic Hall User may impose such other charges as are customarily charged for other similar events (including, without limitation, house management and security fees, cleaning, maintenance, catering and event equipment charges) in connection with such Community User Events. Tenant shall, or shall cause the Civic Hall User to, make good faith efforts to market the Civic Hall Component for Community User Events.

(iv) Approximately 44,000 contiguous rentable square feet (the "Workforce Development Component") shall be used by one or more education-based organization or organizations (the "Workforce Development Users") for the Term of the Lease, whose primary objective is to provide job training to New York City's workforce in skills in demand by New York City employers and that: (x) offer enrollment and participation to students with or without an undergraduate degree, (y) partner with employers to place students into jobs following the completion of training and (z) if the user is a degree-granting institution, is authorized by the New York State Board of Regents, with individual programs of study leading to degrees and credit-bearing certificates registered and approved by the New York State Education Department. The Workforce Development Component may be operated by Tenant or by one or more Subtenants who enter into Subleases with Tenant pursuant to which they agree to operate all or any portion of the Workforce Development Component in accordance with this Section 22.1(b)(iv) (in each case, a "Workforce Development Component Operator"). If any Workforce Development User is a for-profit workforce development entity, the Workforce Development Component Operator shall cause such operator or subtenant to (i) enroll 10% of the students in its

training programs with a discount of not less than fifty percent (50%) on any tuition payments to the Workforce Development User or the Workforce Development Operator for such training programs, and (ii) enroll 10% of the students in its training programs with a full waiver of any tuition payments to the Workforce Development User or the Workforce Development Operator for such training programs. Any such Workforce Development User or Workforce Development Operator (other than Tenant) shall be subject to Landlord's prior approval, which such approval shall not be unreasonably withheld, conditioned or delayed.

Workforce Development Operator shall charge the Workforce Development Users annualized base rent (after netting out any free rent and tenant improvement expenditures or allowances) ("Net Annualized Base Rent") in an amount that reflects a median minimum discount of 35% to the then-current market rent; provided, however that (i) the starting Net Annualized Base Rent for the initial Sublease or other occupancy agreement with the initial Workforce Development User of each portion of the Workforce Development Component shall be equal to $50.00 per rentable square foot (the "Workforce Development Threshold Rent"), and (ii) the starting Net Annualized Base Rent for any subsequent Sublease or other occupancy agreement with any Workforce Development User with respect to any such portion of the Workforce Development Component shall be the lesser of (x) the Workforce Development Threshold Rent, and (y) such amount as shall reflect a 35% discount to the then-current market rent. The Workforce Development Threshold Rent shall escalate at the rate of 2.0% per year in each year after the initial Lease Year and the Net Annualized Base Rent payable pursuant to any Sublease or other occupancy agreement with a Workforce Development User may escalate at no more than 2.0% per year, it being understood and agreed, however, that such Net Annualized Base Rent shall not include (and Workforce Development Users may be required to pay in addition to the Net Annualized Base Rent) customary additional rent items such as escalations for operating expenses and Taxes / PILOT, utility costs, etc. The Workforce Development Component shall be leased for a term of no less than ten (10) years (but such ten (10) year term may include multiple renewal options [i.e. a five (5) year term with a five (5) year renewal option, for example]). For purposes of this Section 22.1(b)(iv), the "then-current market rent" for any new Sublease with a Workforce Development User shall be determined by a reputable commercial real estate broker with not less than ten (10) years of brokerage experience in Manhattan selected by Tenant (and reasonably approved by Landlord), as evidenced by a written market rent analysis performed by such broker within 12 months prior to the consummation of such Sublease and which considers not less than four (4) recent "comparable" lease transactions for market rate office space in first class office buildings in the Union Square area.

(v) Tenant may use the remaining floor area of the Building for such other commercial uses as Tenant may deem desirable for the Term of the Lease, in Tenant's sole and absolute discretion, provided that any such uses shall be permitted under applicable Requirements (the "Permitted Ancillary Uses"). Tenant shall perform the Construction Work, in accordance with Article 12 hereof, necessary to deliver the Workforce Development Component to the initial Workforce Development Users and any subsequent Workforce Development Users in the condition, at a minimum, as required for a Temporary Certificate of Occupancy.

Section 22.2 Prohibited Uses. Tenant shall not use or occupy the Premises, and shall not permit the Premises or any part thereof to be used or occupied for any purpose other than Required Uses and Permitted Ancillary Uses, without (in any such instance) the prior written consent of

Landlord in its sole discretion. Without limiting the generality of the preceding sentence, (A) Tenant shall not use or permit any portion of the Premises to be used (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 22.2 or Article 15 hereof or the certificate(s) of occupancy for the Premises, (iii) in such manner as may make void or voidable any insurance then in force with respect to the Premises, or (iv) hotel or other lodging purpose, (B) Tenant shall not use or permit any Subtenant to use the roof of the Building for the operation of a food and beverage business at the Premises, and (C) Tenant shall not use or permit any Subtenant to use the roof of the Building in any matter that would generate amplified sound after 10:00pm ET on any day of the week, subject to the New York City Noise Control Code. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises in violation of this Section 22.2, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 22.2 or Article 15 hereof. The provisions of this Section 22.2 shall not restrict Tenant's rights under Article 33 hereof to contest any Requirements.

Section 22.3 Other Commitments.

(a) HireNYC Program: Tenant shall comply with the HireNYC Program annexed as Exhibits P-1 and P-2 to this Lease.

(b) M/WBE Practices and Program. Tenant shall comply with the M/WBE Practices and Program annexed as Exhibits K and L to this Lease.

Section 22.4 Living Wage/Prevailing Wage.

(a) With regard to all operations at the Premises, Tenant shall, and shall cause all Subtenants to, comply with the terms of this Section 22.4. Tenant acknowledges that the terms and conditions set forth in this Section 22.4 are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014, with such modifications as shall be expressly provided herein.

(b) Solely for the purposes of this Section 22.4, the following capitalized terms shall have the respective meanings specified below:

"Affiliate" means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with such given Person.

"Asserted Cure" has the meaning specified in Section 22.4(k)(i).

"Asserted LW Violation" has the meaning specified in Section 22.4(k)(i).

"Comptroller" means the Comptroller of The City of New York or his or her designee.

"Concessionaire" means a Person that has been granted the right by Tenant, an Affiliate of Tenant or any tenant, subtenant, leaseholder or subleaseholder of Tenant or of an Affiliate of Tenant to operate at the Premises for the primary purpose of selling goods or services to natural persons at the Premises.

"Control" or "Controls", including the related terms "Controlled by" and "under common Control with", means the power to direct the management and policies of a Person (a) through the ownership, directly or indirectly, of not less than a majority of its voting equity, (b) through the right to designate or elect not less than a majority of the members of its board of directors, board of managers, board of trustees or other governing body, or (c) by contract or otherwise.

"Covered Counterparty" means a Covered Employer whose Specified Contract is directly with Tenant or one of its Site Affiliates to lease, occupy, operate or perform work at the Premises.

"Covered Employer" means any of the following Persons: (a) Tenant, (b) a Site Affiliate, (c) a tenant, subtenant, leaseholder or subleaseholder of Tenant or of an Affiliate of Tenant that leases any portion of the Premises (or an Affiliate of any such tenant, subtenant, leaseholder or subleaseholder if such Affiliate has one or more direct Site Employees), (d) a Concessionaire that operates on any portion of the Premises, and (e) a Person that contracts or subcontracts with any Covered Employer described in clauses (a), (b), (c) or (d) above to perform work for a period of more than ninety days on any portion of the Premises, including temporary services or staffing agencies, food service contractors, and other on-site service contractors; provided, however, that the term "Covered Employer" shall not include (i) a Person of the type described in Section 6-134(d)(2), (3), (4) or (5) of the New York City Administrative Code, (ii) a Person that has annual consolidated gross revenues that are less than the Small Business Cap unless the revenues of the Person are included in the consolidated gross revenues of a Person having annual consolidated gross revenues that are more than the Small Business Cap, in each case calculated based on the fiscal year preceding the fiscal year in which the determination is being made, and in each calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Premises if residential units comprise more than 75% of the total Premises area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Landlord has determined (in its sole and absolute discretion) in writing to be exempt on the basis that it works significantly with a Qualified Workforce Program, (v) a Person whose Site Employees all are paid wages determined pursuant to a collective bargaining or labor agreement, (vi) a Person that is a "building services contractor" (as defined in the LW Law) so long as such Person is paying its "building service employees" (as defined in the Prevailing Wage Law) no less than the applicable "prevailing wage" (as defined in the Prevailing Wage Law), or (vii) a Person exempted by a Deputy Mayor of the City of New York in accordance with the Mayor's Executive Order No. 7 dated September 30, 2014.

"DCA" means the Department of Consumer Affairs of the City of New York, acting as the designee of the Mayor of The City of New York, or such other agency or designee that the Mayor of The City of New York may designate from time to time.

"LW" has the same meaning as the term "living wage" as defined in Section 6-134(b)(9) of the New York City Administrative Code and shall be adjusted annually in accordance therewith, except that as of April 1, 2015, the "living wage rate" component of the LW shall be eleven dollars and sixty-five cents per hour ($11.65/hour) and the "health benefits supplement rate" component of the LW shall be one dollar and sixty-five cents per hour ($1.65/hour). The annual adjustments to the "living wage rate" and "health benefits supplement rate" will be announced on or around January 1 of each year by the DCA and will go into effect on April 1 of such year.

"LW Agreement" means, with respect to any Covered Counterparty, an enforceable agreement in the form attached hereto as Exhibit O (except only with such changes as are necessary to make such Covered Counterparty the obligor thereunder).

"LW Agreement Delivery Date" means, with respect to any Covered Counterparty, the latest of (a) the effective date of such Covered Counterparty's Specified Contract, (b) the date that such Covered Counterparty becomes a Covered Employer at the Premises and (c) the date of this Lease.

"LW Law" means the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

"LW Term" means the period commencing on the Commencement Date and ending on the date that is ten years after the Commencement Date.

"LW Violation Final Determination" has the meaning specified in Section 22.4(k)(i)(1), Section 22.4(k)(i)(2)(A) or Section 22.4(k)(i)(2)(B), as applicable.

"LW Violation Initial Determination" has the meaning specified in Section 22.4(k)(i)(2).

"LW Violation Notice" has the meaning specified in Section 22.4(k)(i).

"LW Violation Threshold" means $100,000 multiplied by 1.03n, where "n" is the number of full years that have elapsed since January 1, 2015.

"Owed Interest" means the interest accruing on Owed Monies, which interest shall accrue from the relevant date(s) of underpayment to the date that the Owed Monies are paid, at a rate equal to the interest rate then in effect as prescribed by the superintendent of banks pursuant to Section 14-a of the New York State Banking Law, but in any event at a rate no less than six percent per year.

"Owed Monies" means, as the context shall require, either (a) the total deficiency of LW required to be paid by Tenant or a Site Affiliate in accordance with this Section 22.4 to Tenant's or its Site Affiliate's (as applicable) direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site Employee(s), all as

calculated on a per pay period basis; or (b) if Tenant or its Site Affiliate failed to obtain a LW Agreement from a Covered Counterparty as required under Section 22.4(f) below, the total deficiency of LW that would have been required to be paid under such Covered Counterparty's LW Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the "living wage rate" component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the "health benefits supplement rate" component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis, during the period commencing on the LW Agreement Delivery Date applicable to such Covered Counterparty and ending immediately prior to the execution and delivery by such Covered Counterparty of its LW Agreement (if applicable).

"Prevailing Wage Law" means Section 6-130 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

"Qualified Workforce Program" means a training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ populations and that has been determined to be a Qualified Workforce Program by the Director of the Mayor's Office of Workforce Development.

"Site Affiliates" means, collectively, all Affiliates of Tenant that lease, occupy, operate or perform work at the Premises and that have one or more direct Site Employees.

"Site Employee" means, with respect to any Covered Employer, any natural person who works at the Premises and who is employed by, or contracted or subcontracted to work for, such Covered Employer, including all employees, independent contractors, contingent workers or contracted workers (including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity) that are performing work on a full-time, part-time, temporary or seasonal basis; provided that the term "Site Employee" shall not include any natural person who works less than seventeen and a half (17.5) hours in any consecutive seven day period at the Premises unless the primary work location or home base of such person is at the Premises (for the avoidance of doubt, a natural person who works at least seventeen and a half (17.5) hours in any consecutive seven day period at the Premises shall thereafter constitute a Site Employee).

"Small Business Cap" means three million dollars; provided that, beginning in 2015 and each year thereafter, the Small Business Cap shall be adjusted contemporaneously with the adjustment to the "living wage rate" component of the LW using the methodology set forth in Section 6-134(b)(9) of the New York City Administrative Code.

"Specified Contract" means, with respect to any Person, the principal written contract that makes such Person a Covered Employer hereunder.

(c) During the LW Term, , Tenant shall pay each of its direct Site Employees no less than an LW. During the LW Term, , Tenant shall cause each of its Site Affiliates that is a Covered Employer to pay their respective Site Employees no less than an LW.

(d) During the LW Term, Tenant shall (or shall cause the applicable Site Affiliate to, as applicable), on or prior to the day on which each direct Site Employee of Tenant or of a Site Affiliate begins work at the Premises, (i) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Section 22.4 in a conspicuous place at the Premises that is readily observable by such direct Site Employee and (ii) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Section 22.4. Such written notice shall also provide a statement advising Site Employees that if they have been paid less than the LW they may notify the Comptroller and request an investigation. Such written notice shall be in English and Spanish.

(e) During the LW Term, , Tenant shall not (or the applicable Site Affiliate shall not, as applicable) take any adverse employment action against any Site Employee for reporting or asserting a violation of this Section 22.4.

(f) During the LW Term, , Tenant shall cause each Covered Counterparty to execute an LW Agreement on or prior to the LW Agreement Delivery Date applicable to such Covered Counterparty. Tenant shall deliver a copy of each Covered Counterparty's LW Agreement to the Landlord, the DCA and the Comptroller at the notice address specified in Article 24 and promptly upon written request. Tenant shall retain copies of each Covered Counterparty's LW Agreement until six years after the expiration or earlier termination of such Covered Counterparty's Specified Contract.

(g) During the LW Term, , in the event that an individual with managerial authority at Tenant or at a Site Affiliate receives a written complaint from any Site Employee (or such individual otherwise obtains actual knowledge) that any Site Employee has been paid less than an LW, Tenant shall deliver written notice to the Landlord, the DCA and the Comptroller within 30 days thereof.

(h) Tenant hereby acknowledges and agrees that the Landlord, the DCA and the Comptroller are each intended to be third party beneficiaries of the terms and provisions of this Section 22.4. Tenant hereby acknowledges and agrees that the DCA, the Comptroller and the Landlord shall each have the authority and power to enforce any and all provisions and remedies under this Section 22.4 in accordance with paragraph (k) below. Tenant hereby agrees that the DCA, the Comptroller and the Landlord may, as their sole and exclusive remedy for any violation of Tenant's obligations under this Lease, bring an action for damages (but not in excess of the amounts set forth in paragraph (k) below), injunctive relief or specific performance or any other non-monetary action at law or in equity, in each case subject to the provisions of paragraph (k) below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Tenant (or of any Site Affiliate) under this Section 22.4. The agreements and acknowledgements of Tenant set forth in this Section 22.4 may not be amended, modified or rescinded by Tenant without the prior written consent of the Landlord or the DCA.

(i) No later than 30 days after Tenant's receipt of a written request from the Landlord, the DCA and/or the Comptroller (but in no event more than once per calendar year), Tenant shall provide to the Landlord, the DCA and the Comptroller (i) a certification stating that all of the direct Site Employees of Tenant and its Site Affiliates are paid no less than an LW (if

such obligation is applicable hereunder) and stating that Tenant and its Site Affiliates are in compliance with this Section 22.4 in all material respects, (ii) a written list of all Covered Counterparties, together with the LW Agreements of such Covered Counterparties, (iii) certified payroll records in respect of the direct Site Employees of Tenant or of any Site Affiliate (if applicable), and/or (iv) any other documents or information reasonably related to the determination of whether Tenant or any Site Affiliate is in compliance with their obligations under this Section 22.4.

(j) Annually, by August 1 of each year during the LW Term, Tenant shall (i) submit to the Landlord a written report in respect of employment, jobs and wages at the Premises as of June 30 of such year, in a form provided by the Landlord to all projects generally, and (ii) submit to the Landlord and the Comptroller the annual certification required under Section 6-134(f) of the LW Law (if applicable).

(k) Violations and Remedies.

(i) If a violation of this Section 22.4 shall have been alleged by the Landlord, the DCA and/or the Comptroller, then written notice will be provided to Tenant for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Landlord, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under Section 22.4 (k)(ii), (iii), (iv), (v) and/or (vi) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Tenant's receipt of the LW Violation Notice, Tenant may either:

(1) Perform the Asserted Cure no later than 30 days after its receipt of the LW Violation Notice (in which case a "LW Violation Final Determination" shall be deemed to exist), or

(2) Provide written notice to the Landlord, the DCA and the Comptroller indicating that it is electing to contest the Asserted LW Violation and/or the Asserted Cure, which notice shall be delivered no later than 30 days after its receipt of the LW Violation Notice. Tenant shall bear the burdens of proof and persuasion and shall provide evidence to the DCA no later than 45 days after its receipt of the LW Violation Notice. The DCA shall then, on behalf of the City, the Landlord and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Tenant and deliver to Tenant a written statement of such determination in reasonable detail, which shall include a confirmation or modification of the Asserted LW Violation and Asserted Cure (such statement, a "LW Violation Initial Determination"). Upon Tenant's receipt of the LW Violation Initial Determination, Tenant may either:

(A) Accept the LW Violation Initial Determination and shall perform the Asserted Cure specified in the LW Violation Initial Determination no later than 30 days after its receipt of the LW Violation Initial Determination (after such 30 day period has lapsed, but subject to clause (B) below, the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination"), or

(B) Contest the LW Violation Initial Determination by filing in a court of competent jurisdiction or for an administrative hearing no later than 30 days after its receipt of the LW Violation Initial Determination, in which case, Tenant's obligation to perform the Asserted Cure shall be stayed pending resolution of the action. If no filing in a court of competent jurisdiction or for an administrative hearing is made to contest the LW Violation Initial Determination within 30 days after Tenant's receipt thereof, then the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination". If such a filing is made, then a "LW Violation Final Determination" will be deemed to exist when the matter has been finally adjudicated. Tenant shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

(ii) For the first LW Violation Final Determination imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, at the direction of the Landlord or the DCA (but not both), (A) Tenant shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Tenant or of a Site Affiliate to such direct Site Employees; and/or (B) in the case of a violation that does not result in monetary damages owed by Tenant, Tenant shall cure, or cause the cure of, such non-monetary violation.

(iii) For the second and any subsequent LW Violation Final Determinations imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, at the direction of the Landlord or the DCA (but not both), (A) Tenant shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Tenant or of a Site Affiliate to such direct Site Employees, and Tenant shall pay fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee; and/or (B) in the case of a violation that does not result in monetary damages owed by Tenant, Tenant shall cure, or cause the cure of, such non-monetary violation.

(iv) For the second and any subsequent LW Violation Final Determinations imposed on Tenant or any Site Affiliate in respect of any direct Site Employees of Tenant or of a Site Affiliate, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Tenant in respect of the direct Site Employees of Tenant or of a Site Affiliate is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Tenant or any Site Affiliate, then in lieu of the remedies specified in subparagraph (iii) above and at the direction of the Landlord or the DCA (but not both), Tenant shall pay (A) two hundred percent (200%) of the Owed Monies and Owed Interest in respect of the present LW Violation Final Determination to the affected direct Site Employees of Tenant or of a Site Affiliate, and (B) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

(v) If Tenant fails to obtain an LW Agreement from its Covered Counterparty in violation of paragraph (f) above, then at the discretion of the Landlord or the DCA (but not both), Tenant shall be responsible for payment of the Owed Monies, Owed Interest and other payments described in subparagraphs (ii), (iii) and (iv) above (as applicable) as if the direct Site Employees of such Covered Counterparty were the direct Site Employees of Tenant.

(vi) Tenant shall not renew the Specified Contract of any specific Covered Counterparty or enter into a new Specified Contract with any specific Covered Counterparty if both (A) the aggregate amount of Owed Monies and Owed Interest paid or payable by such Covered Counterparty in respect of its direct Site Employees for all past and present LW Violation Final Determinations (or that would have been payable had such Covered Counterparty entered into an LW Agreement) is in excess of the LW Violation Threshold and (B) two or more LW Violation Final Determinations against such Covered Counterparty (or in respect of the direct Site Employees of such Covered Counterparty) occurred within the last 6 years of the term of the applicable Specified Contract (or if the term thereof is less than 6 years, then during the term thereof); provided that the foregoing shall not preclude Tenant from extending or renewing a Specified Contract pursuant to any renewal or extension options granted to the Covered Counterparty in the Specified Contract as in effect as of the LW Agreement Delivery Date applicable to such Covered Counterparty.

(vii) It is acknowledged and agreed that (A) other than as set forth in this Lease, the sole monetary damages that Tenant may be subject to for a violation of this Section 22.4 are as set forth in this paragraph (k), and (B) in no event will the Specified Contract between Tenant and a given Covered Counterparty be permitted to be terminated or rescinded by the Landlord, the DCA or the Comptroller by virtue of violations by Tenant or another Covered Counterparty.

(l) During any Lease Year in which the aggregate PILOT abatements received by Tenant, if any, with respect to the Premises are in an amount less than One Million Dollars ($1,000,000) and the financial assistance (as defined in Section 6-134 of the Administrative Code of the City of New York), if any, provided to the Project is expected to have a total present financial value of less than One Million Dollars ($1,000,000), then, notwithstanding anything in this Section 22.4 (including, without limitation, anything set forth in Section 22.4(i) or 22.4(j) above), no Covered Employer occupying office space in the Building that is not a part of the Civic Hall Component, the Food Hall Component or the Workforce Development Component shall be required to disclose the income or payroll records of any Site Employee who earns at least two hundred percent (200%) of an LW, provided, however, that any such Covered Employer shall certify in writing to Landlord, the DCA and/or the Comptroller (i) that any report, certification or payroll records provided pursuant to the requirements of this Section 22.4 includes the relevant information for all Site Employees making less than two hundred percent (200%) of an LW, and (ii) the total number of Site Employees who are above and below the two hundred percent (200%) threshold described in clause (i) above.

Section 22.5 HireNYC

(a) Tenant has submitted to Landlord/Lease Administrator a HireNYC Program ("Tenant's HireNYC Permanent Program") which states Tenant's proposed plans for participation in NYCEDC's hiring and workforce development program which aims to create employment opportunities for low-income persons and includes certain hiring, retention, advancement and training goals ("Goals") as well as other requirements, as more particularly described in Tenant's HireNYC Permanent Program. Tenant's HireNYC Permanent Program is attached hereto as Exhibit P-1.

(b) Tenant agrees that from the date on which Tenant commences business operations at the Premises through the date that is eight (8) years from the date on which Tenant commenced business operations at the Premises ("HireNYC Permanent Program Term"), Tenant and its successors and assigns and all Subtenants at the Premises shall use good faith efforts to reach the Goals set forth in the Tenant's HireNYC Permanent Program. Tenant further agrees to be bound by all the covenants and requirements in Tenant's HireNYC Permanent Program, including the provision of all notices, documents, compliance reports and payment of any liquidated damages as set forth in Exhibit P-2 hereto.

(c) During the HireNYC Permanent Program Term, Tenant agrees to incorporate the terms of Tenant's HireNYC Permanent Program into any and all Subleases at the Premises requiring tenants and subtenants to use good faith efforts to reach the Goals and to be bound by all of the covenants and requirements in Tenant's HireNYC Permanent Program to the same extent as Tenant is required to use good faith efforts to reach the Goals and to be bound by all of the covenants and requirements in Tenant's HireNYC Permanent Program for the balance of the HireNYC Permanent Program Term.

Section 22.6 Failure to Use the Premises in Accordance with this Article 22.

If Tenant shall fail to use the Premises in accordance with Section 22.1(a) or 22.1(b) of this Lease and such non-compliance shall continue for a period of thirty (30) days after notice thereof from Landlord to Tenant; or (2) Tenant shall fail to comply with the requirements of Section 22.2, 22.3, 22.4 or 22.5 of the Lease and such non-compliance shall continue for a period of thirty (30) days after notice thereof from Landlord to Tenant (unless such failure results from the default of a Subtenant, occupant, licensee or concessionaire under the Sublease or other agreement by which such party is permitted to occupy a portion of the Premises, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same or commenced enforcing the provisions of such Sublease or other agreement within such thirty (30) day period and shall diligently and continuously prosecute the same to completion); provided, however, if following the expiration of such thirty (30) day period as the same may be extended in accordance with the provisions of this Section 22.6 (the "Cure Date"), Tenant shall have failed to cure the same, then, following the Cure Date (the "Default Payment Trigger"), Tenant may, at its election, pay to Landlord (x) for each day Tenant fails to cure from and after the Default Payment Trigger and until the thirtieth (30th) day after the Default Payment Trigger (the "Second Default Payment Trigger"), $1,000 per day, Adjusted for Inflation (y) for each day Tenant fails to cure from and after the Second Default Payment Trigger and until the thirtieth (30th) day thereafter (the "Third Default Payment Trigger") $1,500 per day, Adjusted for Inflation and (z) for each day Tenant fails to cure from and after the Third Default Payment Trigger and thereafter, $2,000 per day, Adjusted for Inflation, until the thirtieth (30th) day thereafter ("Third Default Payment Trigger Period"; provided, however that if Tenant is contesting a default that is the subject of this Section 22.6 in good faith through a litigation, arbitration, administrative proceeding, or other legal or equitable proceeding of any kind, then (A) the Default Payment Trigger, Second Default Payment Trigger and Third Default Payment Trigger, as applicable, shall be deemed extended by the number of days during which such proceeding is pending, (B) Tenant's obligations under this Section 22.6 shall be suspended during the period in which such proceeding is pending and (C) the payments referenced in this Section 22.6 shall not accrue during the period in which such proceeding is pending and further provided, however, that so long as Tenant shall pay the amounts required to

be paid pursuant to clause (x), (y) or (z), as applicable, Landlord shall not be permitted to terminate this Lease or exercise any other remedies by virtue of Tenant's failure to comply with one or more of the terms, conditions, covenants or agreements described in this Section 22.6 (it being understood and agreed, however, that following the expiration of the Third Default Payment Trigger Period, if Tenant shall be in violation of this Lease by its continued failure to observe or perform one or more of terms, conditions, covenants or agreements described in this Section 22.6, such failure shall immediately become and Event of Default with no further notice to Tenant, subject to certain notice requirements in the event of Landlord's judicial proceeding set forth in Section 23.3(a).

Section 22.7 Community Advisory Board; Workforce Development Project Fund

(a) Tenant is committed to promote community participation in the Project and to facilitate an ongoing dialogue with the community. Tenant, together with members of the local community, has established, or, no later than thirty (30) days from the Commencement Date, shall establish, and be a participant in, a community advisory board (the "CAB"). The Tenant shall facilitate, participate in and host, free of charge, not less than one meeting of the CAB per Lease Year during the Term of the Lease. At these meeting(s), Tenant shall engage members of the CAB on, among other things: (i) connecting local organizations and residents with educational opportunities and scholarships available within the Workforce Development Component and Community User Events within the Civic Hall Component, (ii) programming and priorities for the Workforce Development Component, including the use of scholarships and grants and opportunities to use event spaces within the Civic Hall Component to meet the needs of the local community and City-wide workforce development goals, (iii) how to advise local residents of employment opportunities created at the Project during the Initial Construction Work and the subsequent operation of the Project, and (iv) opportunities for community feedback on Project operations.

(b) In addition, Tenant shall make a presentation to the members of Manhattan Community Board 3 not less than once per Lease Year to share updates relating to the Project, related to items (i) through (iv) described in the above Section 22.7(a).

(c) The Tenant shall establish and manage a fund (the "Workforce Development Project Fund") using funds provided by Tenant as described in Section 22.7(d) below. Tenant shall make recommendations for use of the Workforce Development Project Fund to the Lease Administrator (i) on or about sixty (60) days prior to the estimated Substantial Completion Date, (ii) on or about sixty (60) days prior to the estimated Workforce Development Commencement Date (as defined hereafter) and (iii) thereafter, at least once every Lease Year (but not later than sixty (60) days prior to each anniversary of the Workforce Development Commencement Date (as defined hereafter). Tenant's recommendations shall be intended to support workforce development programming within the Project, taking into account discussions at its meetings with the CAB and Manhattan Community Board 3 and may include, but are not limited to: (w) establishing scholarships for low-income students seeking digital skills training or workforce development from programs being operated in the Workforce Development Component; (x) establishing scholarships for low-income New York City residents seeking digital skills training or workforce development from programs being operated in the Workforce Development Component; (y) funding grants for not-for-profit workforce development

organizations that offer classes within the Workforce Development Component; and (z) any other uses in the Landlord's sole discretion (collectively, the "Recommended Uses"). Tenant shall simultaneously make recommendations to the Lease Administrator for the designated organizations to receive and distribute the Workforce Development Project Funds for each of the Recommended Uses (collectively, the "Recommended Payees"), it being the parties intention that such Recommended Payees (and not Tenant) would identify, screen and award the individual scholarships and grants to qualified recipients. Upon approval of any such Recommended Uses and/or Recommended Payees by the Lease Administrator, they shall be referred to as Approved Uses and/or Approved Payees, respectively. To the extent that the Lease Administrator rejects any Recommended Use and/or Recommended Payee, the Lease Administrator shall designate a replacement Approved Use and/or Approved Payee in its sole discretion.

(d) Tenant shall make contributions to the Workforce Development Project Fund in the following amounts (each, a "Workforce Development Project Fund Payment", and collectively, the "Workforce Development Project Fund Payments") as follows: (i) within thirty (30) days after the Substantial Completion Date, Two Hundred Thousand and 00/100 Dollars ($200,000.00), (ii) within thirty (30) days after the date upon which the first Workforce Development User opens to the public for the conduct of its business in the Workforce Development Component (the "Workforce Development Commencement Date"), Two Hundred Thousand and 00/100 Dollars ($200,000.00) (the "Initial WD Contribution Amount") and (iii) on the first (1st) anniversary of the Workforce Development Commencement Date and each anniversary thereafter in each Lease Year, a payment in the amount of the Initial WD Contribution Amount, Adjusted for Inflation from the Workforce Development Commencement Date. Within thirty (30) days after the Tenant's deposit of any such Workforce Development Project Fund Payment into the Workforce Development Project Fund, the Tenant shall provide to Lease Administrator (i) reasonable evidence and written certification from an officer of Tenant of such deposit, (ii) itemized to-date disbursements to Approved Payees for Approved Uses, and (iii) the total outstanding balance of the Workforce Development Project Fund. Notwithstanding the foregoing, Tenant's obligation to deposit a Workforce Development Project Fund Payment into the Workforce Development Project Fund as described above shall be tolled day-for-day until such time as Tenant has received written notice from the Lease Administrator designating the Approved Uses and the Approved Payees. Upon the Tenant's disbursement of funds to an Approved Payee for an Approved Use, the Tenant shall provide the Lease Administrator written certification from an officer of Tenant of such disbursement and reasonable supporting documentation of the same. Upon receipt of said documentation, NYCEDC shall issue a credit in the total amount of such Workforce Development Project Fund Payments made by the Tenant for the Approved Use(s) to be applied to the Tenant's next installment of Base Rent or other amounts payable pursuant to this Lease as provided in Section 3.2(d) above.

Section 22.8 Annual Report. Tenant shall submit an annual report (the "Annual Report") to Lease Administrator within sixty (60) days after the end of each Lease Year which shall be certified by an officer of Tenant and shall detail: (i) Tenant's compliance with the use and operating restrictions set forth in Sections 22.1 and 22.2 above; (ii) reasonable financial and programmatic detail regarding the operation of the Workforce Development Component; (iii) a description and certification of the CAB and Manhattan Community Board 3 meeting(s) it hosted and participated in and any Recommended Uses discussed at such meetings; and (iv) the dates of use of the Civic Hall Component for Community User Events during the preceding Lease Year. The Lease

Administrator shall have sixty (60) days from the receipt of the Annual Report to approve or reject the Annual Report.

Section 22.9 Tenant's Responsibilities Regarding CAB

The parties acknowledge and agree that Tenant shall not be responsible for any default, failure, delay or other deficiency in the CAB's performance of the duties of the CAB described in this Lease and the by-laws governing the CAB (the "CAB Agreement") and any such default, failure, delay or other deficiency by the CAB shall not be deemed to be a default by Tenant under this Lease. Tenant's sole responsibility with respect to the CAB pursuant to this Lease shall be to: (i) work with Landlord to establish the CAB as described in Sections 22.7(a) above, (ii) make the Workforce Development Project Fund Payments as described in Section 22.7(d) above, (iii) perform the obligations of Tenant described in the CAB Agreement, and (iv) submit the annual reports as described in Section 22.8 above.

ARTICLE 23
EVENTS OF DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 23.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental or Workforce Development Fund Payment required to be paid by Tenant hereunder when due and such failure shall continue for a period of twenty (20) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall have failed to Commence the Initial Construction Work on or before the applicable Scheduled Commencement Date (subject to Unavoidable Delays) and such failure shall continue for a period of 30 days after notice thereof from Landlord specifying such failure;

(c) if Tenant shall have failed to Substantially Complete the Initial Construction Work on or before the Scheduled Substantial Completion Date (subject to Unavoidable Delays) and such failure shall continue for a period of thirty (30) days after notice thereof from Landlord to Tenant specifying such failure;

(d) or if Tenant shall fail to Finally Complete the Initial Construction Work on or before the Scheduled Final Completion Date, in each case subject to Unavoidable Delays, and such failure shall continue for a period of thirty (30) days after notice thereof from Landlord to Tenant specifying such failure;

(e) if Tenant shall enter into an Assignment, Transfer or Major Sublease in violation of the provisions of this Lease, and such Assignment, Transfer or Major Sublease shall not be voided or made to comply with the provisions of this Lease within thirty (30) days after Landlord's notice thereof to Tenant;

Tenant within ninety (90) days or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord on demand.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

Subject to the provisions herein, Tenant shall use the Premises for the sole purpose of Industrial Use, accessory parking and Green Space as described in Exhibit D, with respect to each portion of the Premises so indicated for such use in Exhibit D, and uses accessory thereto (the "Permitted Uses"). For purposes of this Lease:

"Industrial Use" means the fabrication, production or assemblage of goods and products for wholesale or retail sale or distribution (and may include showroom or product sampling space that is ancillary to the fabrication, production or assemblage of good and products), and excludes warehouse and other storage uses except as is ancillary to on-site fabrication or assemblage of goods and products.

"Green Space" means open landscaped space that is available for use by the residents and users of the Premises or the general public.

Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Tenant shall cause each component of the Project to be occupied for the purposes, in the amounts of space and within the time frames set forth in Exhibit D. Tenant shall keep Landlord informed, on a current basis, of the steps being taken by Tenant initially to sublease the Premises. Furthermore, on an annual basis, Tenant shall certify to Landlord and Lease Administrator (the "Annual Certification") that (A) it is in compliance with the requirements set forth above or (B) to the extent it is not in compliance with respect to any of the above, identifying (i) such portion of the Premises, (ii) the nature of the non-compliance and (iii) the steps being taken to address such non-compliance. The Annual Certification to be provided by Tenant shall indicate whether Tenant anticipates any difficulty in meeting the requirements relative to any portion of the Premises during the forthcoming year, identifying the nature of the anticipated difficulty and the steps proposed to be taken by Tenant to address the same. Tenant shall provide notice to Landlord in the event that the Premises is less than 75% leased for a period of 12 consecutive months.

Section 8.02 Requirements for Conduct of Business.

This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and

the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use.

Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises or any subtenant, as applicable, using any portion of the Premises for any such business, use or purpose. The provisions of this Section shall not restrict Tenant's rights to contest any Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 Hazardous Substances.

(a) Tenant shall not cause or permit, as the result of any intentional or unintentional act or omission on the part of Tenant, and/or their respective Representatives, occupants, invitees and licensees to release Hazardous Substances in, from, at or onto any portion of the Premises in violation of any Environmental Laws.

(b) The Premises shall be delivered "as-is". As of the Lease Commencement Date, Tenant shall assume all liability for Hazardous Substances on the Premises from that day forward until the end of the Term, including but not limited, to the disturbance of any pre-existing conditions, except that Tenant shall have no liability for claims made by third parties relating to any tort or environmental liabilities under any Environmental Law for any injury suffered during the period prior to the date when Tenant took possession of the Premises. Further, Tenant shall not be responsible for liability for Hazardous Substances to the extent arising from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors. Notwithstanding the previous sentence, to the extent pre-existing conditions are disturbed as a result of actions that occur during Tenant's occupancy of the Premises, Tenant shall be responsible for any resulting liability (except for liability for third party actions referenced in the second sentence of this paragraph). For the purposes hereof, Tenant's possession of the Premises shall be deemed to include, but not be limited to, any period during which Tenant made use and/or occupancy of the Premises. In the event any Hazardous Substances shall be found within, under, or upon the Premises, Tenant shall (x) promptly take or cause to be taken any action required by a Governmental Authority under any applicable Environmental Laws with respect to such Hazardous Substances, (y) notify Landlord of the discovery of any occurrence or conditions on the Premises, or any real property adjoining or in the vicinity of the Premises to the extent that Tenant has knowledge of same, provided that Tenant shall have no duty to make independent inquiry or investigation unless

required by any applicable law, and solely to the extent the occurrence or conditions is or are reasonably likely to cause the Premises or any part thereof to be subject to any liability or action under any Environmental Law, and (z) notify Landlord of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Premises pursuant to any applicable Environmental Law. The expense for all such action shall be the responsibility of the Tenant, except that Tenant shall not have any duty to pay for or to reimburse Landlord for any costs or expenses resulting from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors, and Landlord shall bear all costs and expenses for any such negligent acts or omissions. All action with respect to any Hazardous Substances on the Premises shall be performed in accordance with all Requirements and receive the necessary regulatory department sign offs. To the extent Landlord shall not incur any cost, Landlord shall make good faith efforts to cooperate with Tenant in Tenant's efforts to obtain any necessary regulatory department sign offs. Notwithstanding the above, provided the Requirement specifically provides for challenge or deferral, Tenant shall have the right to so challenge and defer compliance with such Requirement in accordance with the terms therewith, if no dangerous or hazardous condition then exists or would be caused or lien would be created by such deferral and Tenant complies with the reasonable requirements of the Landlord regarding the Hazardous Substances at issue. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this Article, Tenant shall submit or cause to be submitted to Landlord a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. Tenant shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide Landlord with an updated schedule.

(c) Tenant shall defend, indemnify and save the Indemnities harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, court costs and reasonable attorneys' fees and disbursements, that may be imposed upon, or incurred by, or asserted against, any of the Indemnitees (i) arising out of, or in any way related to the presence, storage, transportation, disposal, release or threatened release of any Hazardous Substances over, under, in, on, from or affecting the Premises, and any persons, real property, Personal Property, or natural substances thereon or affected thereby during the Term of this Lease, including, without limitation, any such liability, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses imposed upon, incurred by or asserted against Landlord, Landlord's Agent, NYCLDC or the Lease Administrator under CERCLA, and (ii) any violations of applicable environmental laws. The indemnity provisions set forth in Article 23 shall also apply to the indemnity obligations of Tenant set forth in this Section.

(d) Tenant shall comply with or cause to be complied with all applicable federal, state and local laws concerning any Hazardous Substance that Tenant or other occupant of the Premises produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Premises or transports from the Premises. Tenant shall also comply with all applicable federal, state, and local laws related to the health and safety of its employees.

Section 8.05 No Representations or Warranty by Landlord.

(a) Neither Landlord nor Lease Administrator has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord nor Lease Administrator has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor Lease Administrator, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and Lease Administrator, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

ARTICLE 9
INDUSTRIAL DEVELOPER FUND REQUIREMENTS

Section 9.01 Industrial Developer Fund.

Pursuant to a request for proposals, MHANY was selected to receive funds from the Industrial Developer Fund for its proposal to construct an industrial development project at the Premises. The City has appropriated the sum of Fifteen Million Dollars ($15,000,000) for the Project from the Industrial Developer Fund (the "City Funds"). It is expected that the City Funds will be made available to Tenant for the Project pursuant to a funding agreement with NYCEDC (the "Funding Agreement"), and that Tenant will be the Funding Recipient (as defined in the Funding Agreement) thereunder. Notwithstanding the foregoing, or anything to the contrary in this Lease, Landlord and Tenant acknowledge that the New York City Office of Management and Budget ("OMB") (a) is not acting on behalf of (i) the City in its proprietary capacity as Landlord and/or (ii) the Lease Administrator, and (b) shall approve or deny a certificate to proceed in accordance with standard OMB procedures. Neither the Landlord nor the Lease Administrator makes any representations or warranties to the Tenant with respect to the availability of City Funds or Tenant's eligibility from same. In the event the Funding Agreement is executed and becomes effective, Tenant agrees that the Premises shall be subject to the obligations set forth in this Article 9.

Section 9.02 City Purpose Covenant.

Commencing on the Performance Term Commencement Date (as hereinafter defined) and concluding thirty (30) years thereafter (the "Performance Term") the Premises shall be used as follows ("City Purpose Covenant"):

(a) as a multi-tenanted industrial facility for small manufacturers and industrial companies, consisting of the type and size of the following North American Industry Classification System ("NAICS") codes, as set forth in more detail in Exhibit G attached hereto: 11, 21, 22, 23, 31, 32, 33, 42, 48, 49, 512, 517, 562, 811, 5324, 532120, 561910, 812331, and

92. Ferrara Brothers

ARTICLE 23
USE AND OPERATING COMMITMENTS

Section 23.1 Use and Operating Requirements. The Landlord in authorizing this Lease, has materially relied upon Tenant's commitment to develop the Project as described in the Project Commitments set forth in Exhibit B annexed hereto, which sets forth, among other things, (i) specific equipment and other elements to be included in the Project; (ii) minimum investments to be made in the Project by Tenant and (iii) specific construction milestones for the Project, all of which Tenant has committed to perform (collectively, the Project Commitments). Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments, and otherwise in accordance with this Article 23, and for no other use or purpose, is of paramount importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article 23 shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article 23 (which shall include without limitation the Project Commitments set forth in Exhibit B annexed hereto), including as follows:

(a) Tenant shall continuously, on a daily basis throughout the Term, use the Premises (and cause the Premises to be used) (i) for the development and operation of a maritime dependent concrete manufacturing plant and (ii) to a di minimus extent (utilizing not more than ten percent (10%) of the Premises), for a compressed natural gas fueling station (the uses under this clause (a), collectively, the "Required Uses"). Without limiting Landlord's right to determine whether a Default or Event of Default has occurred with respect to Tenant's obligations pursuant to this Section 23.1 for any reason not described in the following provisions of this clause (a), in the event that Landlord determines that less than fifty percent (50%) of the raw materials used in Tenant's concrete manufacturing plant in any period of twelve (12) months determined on a rolling basis (with a new 12-month period beginning on the first day of each new month) were delivered to the Premises (or to the pier immediately adjacent to the Premises) by waterborne craft, commencing with Final Completion of the Initial Construction Work, subject to Unavoidable Delays not to exceed 30 calendar days, the Premises shall be deemed no longer used as a maritime dependent concrete manufacturing plant and no longer used for the "Required Uses" as required by this Section 23.1(a) and by Section 23.2(a) and Landlord shall have the remedies provided in Article 24.

(b) Intentionally Omitted.

(c) Intentionally Omitted.

(d) HireNYC: Permanent.

(i) Tenant has submitted to Lease Administrator a HireNYC: Permanent Program ("Tenant's HireNYC: Permanent Program") which states Tenant's proposed plans for participation in NYCEDC's hiring and workforce development program which aims to create employment opportunities for low-income persons and includes certain hiring, retention, advancement and training goals ("Goals") as well as other requirements, as more particularly

described in Tenant's HireNYC: Permanent Program. Tenant's 's HireNYC: Permanent Program is attached hereto as Exhibit J-2.

(ii) Tenant agrees that from the date on which Tenant commences business operations at the Premises through the date that is eight (8) years from the date on which Tenant commenced business operations at the Premises ("HireNYC: Permanent Program Term"), Tenant and its successors and assigns and all Subtenants at the Premises shall use good faith efforts to reach the Goals set forth in the Tenant's HireNYC: Permanent Program. Tenant further agrees to be bound by all the covenants and requirements in Tenant's HireNYC: Permanent Program, including the provision of all notices, documents and compliance reports as set forth in Exhibit J-2 hereto.

(iii) During the HireNYC: Permanent Program Term, Tenant agrees to incorporate the terms of Tenant's HireNYC: Permanent Program into any and all Subleases at the Premises requiring tenants and subtenants to use good faith efforts to reach the Goals and to be bound by all of the covenants and requirements in Tenant's HireNYC: Permanent Program to the same extent as Tenant is required to use good faith efforts to reach the Goals and to be bound by all of the covenants and requirements in Tenant's HireNYC: Permanent Program for the balance of the HireNYC: Permanent Program Term.

(e) Tenant shall not use or occupy the Premises, and shall not permit the Premises or any part thereof to be used or occupied, for any purpose other than the Required Uses without (in any such instance) the prior written consent of Landlord in its sole discretion. Without limiting the generality of the preceding sentence, Tenant shall not use or permit any portion of the Premises to be used (i) for any unlawful or illegal business, use or purpose, (ii) for any purpose, or in any way in violation of the provisions of this Section 23.1 or Article 16 hereof or the certificate(s) of occupancy for the Premises, (iii) in such manner as may make void or voidable any insurance then in force with respect to the Premises, or (iv) for any residential use, and Tenant shall make good faith efforts to refrain from engaging in any unethical or disreputable method of business operation and shall make good faith efforts to cause other Persons on the Premises (including Subtenants) to refrain from using such methods of business operation. Tenant shall, promptly upon Tenant's knowledge of any business, use, purpose, or occupation of the Premises in violation of this Section 23.1, take all necessary steps, legal and equitable, to compel the discontinuance of such business, use or purpose, including, if necessary, the removal from the Premises of any Subtenants using a portion of the Premises for an unlawful or illegal business, use or purpose or in violation of this Section 23.1 or Article 16 hereof. The provisions of this Section 23.1 shall not restrict Tenant's rights under Article 34 hereof to contest any Requirements.

Section 23.2 Operation. The operation of the Premises shall be under the exclusive supervision and control of Tenant, provided that Tenant shall in all events operate the Premises on a daily basis consistent with the Premises being operated as a maritime dependent concrete manufacturing plant and natural gas fueling station in accordance with Section 23.1. The requirements for the operation of the Premises set forth in this Article 23 are hereinafter referred to as the "Operating Commitments."

(a) Promptly, but in no event later than sixty (60) days following Final Completion of the Initial Construction Work, Tenant shall commence operation of the Premises for the Required Uses and thereafter continuously throughout the Term operate the Premises on a daily basis for the Required Uses.

(b) In furtherance of the requirement set forth in Section 23.2(a), Tenant shall produce not less than 25,000 cubic yards of concrete annually from the operation of the Premises for the Required Uses.

ARTICLE 24
EVENTS OF DEFAULT, REMEDIES, ETC.

Section 24.1 Definition. Each of the following events shall be an "Event of Default" hereunder:

(a) if Tenant shall fail to make any payment (or any part thereof) of Rental required to be paid by Tenant hereunder and such failure shall continue for a period of ten (10) days after notice thereof from Landlord to Tenant;

(b) if Tenant shall have failed to commence the Demolition and Remediation Work included in the Initial Construction Work on or before the Scheduled Demolition and Remediation Commencement Date (subject to Unavoidable Delays not to exceed thirty (30) calendar days);

(c) if Tenant shall have failed to achieve Substantial Demolition and Remediation Completion on or before the Scheduled Demolition and Remediation Completion Date (subject to Unavoidable Delays not to exceed thirty (30) calendar days);

(d) if Tenant shall fail to commence the Initial Construction Work (other than Demolition and Remediation Work) not later than the Scheduled Construction Commencement Date (subject to Unavoidable Delays not to exceed thirty (30) calendar days);

(e) if Tenant shall have failed to Substantially Complete the Initial Construction Work on or before the Scheduled Construction Completion Date (subject to Unavoidable Delays not to exceed thirty (30) calendar days);

(f) if Tenant shall have failed to Finally Complete the Initial Construction Work on or before the Final Completion Date (subject to Unavoidable Delays not to exceed thirty (30) calendar days);

(g) if Tenant shall enter into an Assignment, Transfer or Sublease in violation of the provisions of this Lease, and such Assignment, Transfer or Sublease shall not be made to comply with the provisions of this Lease or canceled within twenty (20) days after Landlord's notice thereof to Tenant;

(h) if Tenant shall fail to maintain the insurance required to be maintained by Tenant pursuant to Article 7;

on account of all sums due under this Amended and Restated Lease, if any, and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord on demand in accordance with the terms of this Amended and Restated Lease.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

(a) The Premises may be used and occupied by Tenant (and by any Subtenant or licensee) for the following purposes: (1) Television/film/movie/media production and related studio use; the operation of all manner of media, the arts, content, advertising, and/or entertainment businesses, inclusive of media production-related software or media production-related tech businesses; certain related uses including production offices, set design, set construction and storage, scenic artist areas, dressing rooms, hair and make-up rooms, green rooms, screening rooms, dubbing stages, automated dialogue replacement (ADR) rooms, dimmer rooms, lighting and grip departments, editing, Foley stages, wardrobe workshops and storage, studio use related manufacturing, costume design, post-production services, food service for production personnel, stages, studios, product launches, media-related academic programming, scoring stages, writing facilities, location shoots, auditions, castings, extras holding, talent agencies and/or managers, "studio store", mill shops, motion capture, performance capture, animation, special effects, visual effects, trailers/"shorts", live-to-tape concerts, and rehearsals (collectively, the "**Primary Uses**"); (2) parking use and ancillary office use, including as a property management office for the Premises (and in contradistinction from production offices), which uses shall collectively not exceed 50,000 square feet of the Premises (collectively, the "**Parking and Ancillary Office Uses**"), (3) Permitted General Office Use as set forth in Sections 8.01(a)(i)-(iv), and (4) retail uses, tourism, and cafe, catering, eating and drinking, event spaces and other uses, in each case ancillary to the Primary Uses, the Parking and Ancillary Uses and Permitted General Office Use, such uses in this subclause (4) not to collectively exceed 5,000 square feet of the Premises (collectively, the "**Retail and Ancillary Uses**;" collectively with the Primary Uses, the Parking and Ancillary Office Uses and the Permitted General Office Use, the "**Permitted Uses**"). It is currently anticipated that the Primary Uses, the Parking and Ancillary Office Uses, the Retail and Ancillary Uses and the Permitted General Office Use shall be located in the areas of the Premises identified on the diagram attached hereto as Exhibit X, it being acknowledged that not all of such uses are currently anticipated and that the location of such uses may, subject to the terms and provisions of this Amended and Restated Lease, be modified by Tenant. Any Permitted Uses shall be subject to all applicable Requirements (including, without limitation, the New York City Zoning Resolution).

(i) Tenant shall have the right to use the Premises, and sublease or license the Premises, for non-ancillary general office use (the "**Permitted General Office Use**"), provided that the portion of the Premises used for Permitted General Office Use shall not exceed the lesser of (A) 25,000 square feet of the Western Pier Space and (B) the amount of non-ancillary general office use (x) analyzed in the EAS and determined not to have a significant adverse environmental impact or (y) otherwise determined by the applicable Governmental Authority not to have the potential to result in significant unmitigated traffic and/or other environmental impacts

(including adjustment, if applicable, for any Parking and Ancillary Use) (the "**Pre-Approved Office Space**").

(ii) Notwithstanding the foregoing 25,000 square foot limitation set forth in Section 8.01(a)(i), if a 75%+ Premises Major Sublease is then in effect, Tenant shall have the right (the "**Major Sublease PGO Expanded Use Right**") to use any portion of the Western Pier Space not subleased pursuant to the 75%+ Premises Major Sublease for Permitted General Office Use (in addition to the Pre-Approved Office Space) each for no more than the term of the 75%+ Premises Major Sublease (as the same may be extended) plus a period of twelve (12) months.

(iii) Notwithstanding the foregoing 25,000 square foot limitation set forth in Section 8.01(a)(i), if a portion of the Western Pier Space is not occupied, on average, for Permitted Uses for a period of two (2) years as evidenced by two (2) years of operational history for the Premises (it being agreed that such portion of the Western Pier Space does not need to be the same particular space and instead may consist of various spaces, from time to time, evidencing a reasonably consistent amount of vacant square feet over such period and excluding reasonably determined outlier occupancy arrangements (e.g., 1-week rental for space that is not replicable on a consistent basis)), Tenant shall have the right (the "**Vacancy PGO Expanded Use Right**"), by delivering written notice thereof to Landlord (a "**Vacancy PGO Notice**") to use such portion for Permitted General Office Use (in addition to the Pre-Approved Office Space) for the lesser of (the "**Vacancy PGO Term**") (x) the actual term of the applicable occupancy agreement for Permitted General Office Use for such unoccupied portion of the Western Pier Space and (y) ten (10) years after the commencement of the term of the applicable occupancy agreement for Permitted General Office Use for such unoccupied portion of the Western Pier Space. In addition, if Tenant is already permitted to use a portion of the Western Pier Space for Permitted General Office Use pursuant to the Vacancy PGO Expanded Use Right (the "**Existing Vacancy PGO Space**") and Tenant thereafter sends an additional Vacancy PGO Notice to Landlord with respect to an additional portion of the Western Pier Space, the Vacancy PGO Term for the Existing Vacancy PGO Space shall be extended such that the Vacancy PGO Term for the Existing Vacancy PGO Space shall be coterminous with the Vacancy PGO Term for the additional portion of the Western Pier Space that was the subject of the additional Vacancy PGO Notice.

With respect to the Vacancy PGO Expanded Use Right, Tenant shall have the right, at Tenant's expense, to commission a market study (produced by (A) a reputable, third-party commercial real estate broker with at least 5 years' experience in commercial real estate leasing in the Borough of Manhattan or (B) a reputable, third-party studio operator with at least 5 years' experience in operating comparable film studios, which broker or operator (as applicable) shall be subject to Landlord's approval, not to be unreasonably withheld, conditioned or delayed) to determine whether or not Tenant is reasonably likely, within the twelve (12) months after the Vacancy PGO Term for the applicable portion of the Western Pier Space, to enter into a sublease for such portion of the Western Pier Space for the Permitted Use for a term of at least five (5) years at then market rates for comparable space in the New York City metropolitan area (excluding reasonably determined outlier occupancy arrangements (e.g., 1-week rental for space that is not replicable on a consistent basis)). If such market study concludes that Tenant is not reasonably likely to enter into such a sublease for the applicable portion of the Western Pier Space, the Vacancy PGO Term for such portion of the Western Pier Space shall be extended for an additional period of ten (10)

years. As used in this Section 8.01(a)(iii) "**comparable space**" means space that is subject to the use restrictions then imposed on the applicable portion of the Western Pier Space.

(iv) Tenant's rights under Sections 8.01(a)(ii) and (iii) to use Western Pier Space for Permitted General Office Use shall be limited to the size of such facilities (x) analyzed in the EAS as an alternative and determined not to have a significant adverse environmental impact or (y) otherwise determined by the applicable Governmental Authority not to have the potential to result in significant unmitigated traffic and/or other environmental impacts.

(b) In the event of a Business Failure Event after the fifth anniversary of the Substantial Completion of the Initial Construction Work, Tenant will have the right to use the headhouse portion of the Premises for any use permitted by zoning (other than uses expressly prohibited by the terms and conditions of this Amended and Restated Lease) (a "**Pivot Use**"), provided such use meets the following criteria and requirements: (i) it is a use that is compatible with maritime/waterfront use of the surrounding piers, (ii) (x) it was analyzed in the EAS as an alternative and determined not to have a significant adverse environmental impact or (y) it is otherwise determined by the applicable Governmental Authority not to have the potential to result in significant unmitigated traffic and/or other environmental impacts, (iii) it complies with DOT requirements (if any), and (iv) the parties shall reasonably negotiate an amendment to this Amended and Restated Lease in good faith to reflect revised terms, including the project economics, as more fully set forth in Section 8.01(c)(ii) below.

(c) (i) Any use of the headhouse portion of the Premises that is not a Permitted Use or a Pivot Use and any proposed alternate use of the remainder of the Premises that is not a Permitted Use, which may include the renegotiation of the 25,000 square foot cap on Permitted General Office Use set forth in Section 8.01(a)(i) above and a renegotiation of the square footage amounts for Parking and Ancillary Uses and for Retail and Ancillary Uses set forth in Section 8.01(a) above (a "**Landlord Approval Use**"), shall be subject to Landlord's review and approval. Tenant further acknowledges and agrees that Landlord's approval of a proposed Landlord Approval Use is contingent on, among other things, the negotiation of an amendment to the Lease to reflect revised terms, including the project economics, as more fully set forth in Section 8.01(c)(ii) below. Notwithstanding anything to the contrary in this Section 8.01(c)(i), Tenant's use of the headhouse portion of the Premises for a particular permitted Pivot Use shall not obligate the Landlord to approve of a proposed alternate use of any other portion of the Premises. Any Pivot Use or Landlord Approval Use approved by Landlord is hereafter an "**Alternate Permitted Use**"). Any Alternate Permitted Use effectuated pursuant to this Section 8.01 shall be deemed to be "Permitted Uses" herein.

(ii) In connection with an Alternate Permitted Use, Landlord and Tenant shall use good faith efforts to negotiate an amendment to this Amended and Restated Lease to adjust the terms thereof, including the project economics, to accommodate the Alternate Permitted Use, provided that any adjustment to the Gross Revenue Participation Rent shall take into account all relevant factors. Notwithstanding the foregoing or anything to the contrary contained herein, in no event shall Base Rent be reduced below the annual Base Rent amount for the immediately preceding Lease Year.

(d) Public Amenity Space. The Project shall include an enclosed Public Amenity Space containing at least 1,850 square feet along the northeast corner of Pier 94. The space may be made available to the public up to 365 days a year, from dawn to dusk (which days and hours should generally be consistent with other indoor public spaces of similar uses operated in Hudson River Park and New York City Parks) (the "**Public Amenity Space**"). During those hours that the Public Amenity Space is closed, for security purposes Tenant shall keep the Public Amenity Space locked with respect to the general public. The Public Amenity Space will include a park security office, publicly accessible restrooms and a storage closet. The Public Amenity Space, other than the restrooms and security office, will be made available to the public on a reservation basis pursuant to an equitable, non-discriminatory policy reasonably approved by Landlord. Tenant shall provide tables and seating reasonably acceptable to Landlord. Tenant is responsible for the cleaning and maintenance of the Public Amenity Space and agrees that ordinary cleaning and maintenance shall be scheduled at times which are consistent with the times that the Hudson River Park is cleaned and maintained; and Tenant may, to the extent and for such period of time reasonably required, close the Public Amenity Space during routine hours of operation to undertake maintenance and repairs which cannot reasonably be performed after routine hours of operation. Tenant may hire an operator, reasonably approved by Landlord, to manage the Public Amenity Space. Landlord hereby acknowledges that HRPT is an acceptable operator. Prominently displayed signage, identifying the Public Amenity Space as a publicly accessible area (and indicating the hours of operation) shall be placed in a location(s) mutually acceptable to Landlord and Tenant, shall be subject to Design Commission review and approval to the extent required by Requirements, and shall comply with zoning requirements and applicable laws, rules and regulations.

(e) Public Walkway/Esplanade. The Project shall include a public walkway containing approximately 25,000 square feet along the north apron of Pier 94 culminating in a publicly accessible outdoor terrace esplanade space on the western end of Pier 94, as approved by the Design Commission, and as set forth on Exhibit D attached hereto (the "**Public Waterfront Areas**"). The Public Waterfront Areas shall be open to the public 365 days a year from dawn to dusk (or such lesser daily times as the Hudson River Park is open to the public). Tenant may, to the extent and for such period of time reasonably required, close the Public Waterfront Areas during routine hours of operation to undertake maintenance and repairs which cannot reasonably be performed after routine hours of operation. During those hours that the Public Waterfront Areas are closed as permitted hereunder, for security purposes Tenant shall gate and lock the Public Waterfront Areas with respect to the general public. Tenant shall provide seating and lighting along the Public Waterfront Areas and maintain the Public Waterfront Areas.

Section 8.02 Prohibited Uses.

(a) Generally Prohibited Uses. Tenant is specifically prohibited from using or occupying or allowing the use or occupancy of the Premises for the following uses: (i) the operation on the Premises of a so-called "flea market"; (ii)(A) filming of "adult pornographic films" or other "pornography" (it being understood that "mature," "adult," "artistic adult," "documentaries" or "sexually explicit" content produced in connection with a non-pornographic media (e.g., content for CBS, TNT, HBO, Showtime, Hulu, Amazon, Netflix, etc., or content for mainstream circulation on any other medium such as film, cable television, streaming platforms, etc.) shall not be prohibited hereunder) or (B) selling or displaying for sale any "adult printed or

operation. Tenant may hire an operator, reasonably approved by Landlord, to manage the Public Amenity Space. Landlord hereby acknowledges that HRPT is an acceptable operator. Prominently displayed signage, identifying the Public Amenity Space as a publicly accessible area (and indicating the hours of operation) shall be placed in a location(s) mutually acceptable to Landlord and Tenant and shall be subject to Design Commission review and approval and shall comply with zoning requirements and applicable laws, rules and regulations.

(f) Logistics Center. The Project shall include a Logistics Center on the ground level of Pier 92, containing approximately 40,000 square feet, for loading and unloading crate storage and other back-of-the-house functions. The foregoing does not include truck circulation areas or areas preserved for cruise ship logistics.

(g) Public Walkway/Esplanade. The Project shall include a public walkway along the north apron of Pier 94 culminating in a publicly accessible outdoor terrace esplanade space on the western end of Pier 94 all as set forth on Exhibit B attached hereto (the "**Public Waterfront Areas**"). The Public Waterfront Areas shall be open to the public 365 days a year from dawn to dusk (or such lesser daily times as the Hudson River Park is open to the public). During those hours that the Public Waterfront Areas are closed as permitted hereunder, for security purposes Tenant shall gate and lock the Public Waterfront Areas with respect to the general public. Tenant shall provide seating and lighting along the Public Waterfront Areas and maintain the Public Waterfront Areas.

(h) Military and Cruise Ship Usage of Pier 92. Tenant agrees to allow military and/or cruise ships at Pier 92 (i) during Fleet Week activities which shall occur no more than once a year and are expected to last no more than eight (8) consecutive days and/or (ii) subject to Tenant's pre-existing show schedules, for special circumstances (not considered a Special Use under Section 8.01(b)(i) hereof) up to four (4) times a year, but lasting no more than four (4) consecutive days each time, but in no event more than twelve (12) days in the aggregate per year, and in the cases of both clauses (i) and (ii) at least twelve (12) months prior written notice will be provided by Landlord ("**Special Cruise Usage**"). In addition, Tenant will allow for cruise ships at Pier 92 in the event of an emergency situation. Tenant agrees to accommodate the operations associated with the foregoing and reasonably cooperate with the applicable operator, military department and personnel, and/or other parties, as designated by the Landlord, directly or through its appointed agent or representative (which, as provided in Section 2.01 of the so-called "Maritime Contract" between the City and NYCEDC is currently the Lease Administrator). Tenant agrees to work with U.S. Department of Homeland Security and other agencies with oversight over security, in a timely manner, to set forth an access and utilization plan necessary to disembark and provision a ship during such periods. Tenant shall not be required to construct any required security improvements to accommodate the foregoing, and the same shall be the responsibility of Landlord and/or the Terminal Operator; provided, however, to the extent Tenant requests any security improvements or its use of the Premises causes any changes to be made to the required security improvements, the same shall be the responsibility of Tenant. Tenant shall not be required to maintain and/or repair infrastructure, such as existing gangways and fendering systems, necessary to continue docking cruise ships at Pier 92, which shall be the responsibility of Landlord as it deems necessary, in its sole discretion. In consideration for Tenant's accommodation of and provision of services (other than services in

occur within a twelve (12) month period two (2) subsequent Events of Default with respect to any monetary obligation of Tenant under this Lease and Landlord has demanded of Tenant to make such deposits.

(f) Deposits with Recognized Mortgagee. In the event that a Recognized Mortgagee shall require Tenant to deposit funds to insure payment of Impositions or insurance premiums, the same shall be credited against any amounts required to be deposited under this Article 7 for so long as such funds are used solely to pay Impositions or insurance premiums. The disposition of such amounts shall be governed by the Recognized Mortgage pursuant to which the same are deposited with such Recognized Mortgagee, provided that Tenant shall notify Landlord, or cause the Recognized Mortgagee to immediately notify Landlord, of any disbursement of deposited funds, and, to the extent such funds are applied by the Recognized Mortgagee to payments other than Impositions or insurance premiums, within five (5) Business Days after demand by Landlord, Tenant shall restore sufficient funds to the account to satisfy the requirements of Section 7.01 hereof.

Section 7.02 Effect of Sale or Transfer of Premises by Landlord. In the event of Landlord's sale or transfer of the Premises, Depositary shall continue to hold any moneys deposited with it pursuant to the provisions of Section 7.01(a) and Section 7.01(b) hereof and shall transfer such deposits to a special account with such Depositary established in the name of the Person who acquires the Premises and becomes Landlord for the purposes provided in the applicable provisions of this Lease. Upon such sale or transfer, the transfer of such deposits and notice thereof to Tenant, Landlord shall be deemed to be released to the extent of the deposits so transferred from all liability with respect thereto and Tenant shall look solely to the Depositary and new Landlord with respect thereto. Landlord shall promptly deliver to Tenant a copy of the instrument of transfer to the new Landlord. The provisions of this Section shall apply to each successive transfer of such deposits.

Section 7.03 Effect of Termination. Upon the Expiration Date, if this Lease shall terminate, or the Term shall terminate or expire and a new lease shall not be entered into, or this Lease shall not be continued with a Recognized Mortgagee, all deposits then held by Depositary, shall be applied by Landlord on account of any and all sums due under this Lease and the balance, if any, remaining thereafter with the interest, if any, earned thereon and remaining after application by Landlord as aforesaid, shall be returned to Tenant within ninety (90) days or, if there shall be a deficiency, Tenant shall pay such deficiency to Landlord promptly following demand.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

(a) Subject to the provisions herein, Tenant shall use the Premises for the sole purposes included below and as further expanded upon in the Project Commitments set forth in Exhibit D as well as the other uses described therein, with respect to each portion of the Premises so indicated for such use in the Project Commitments and uses accessory thereto (the "Permitted Uses"). In furtherance of the foregoing, the Residential Space component shall include not less than 224 housing units constituting approximately 197,486 square feet of space in Building 2A

and not less than 135 housing units constituting approximately 144,915 square feet of space in Building 2B, to be used pursuant to the terms of the Regulatory Agreement until same is no longer in effect, and thereafter for Residential Use. For purposes of this Lease:

(1) "Artist Workspace" means space operated by one or more not-for-profit entities for the practice of the fine arts such as, but not limited to, painting, sculpting, writing, photography, filmmaking, dance, theatre and music. For sake of clarity, use of space primarily for commercial for-profit public entertainment, such as a movie theatre, playhouse, dance hall, cabaret, supper club, disco, night club or the like would not qualify as Artist Workspace, and Artist Workspace shall encompass a minimum of (i) approximately 5,000 square feet in the Community Facility Space located in Building 2B for a minimum of ten (10) years following Substantial Completion or (ii) of the approximately 5,000 square feet of the Community Facility Space located in Building 2B, approximately 4,000 square feet for Artist Workspace for a minimum of ten (10) years following Substantial Completion and the remaining approximately 1,000 square feet of space be leased to the operator of the Educational Program Space and used for ancillary educational purposes for a minimum of ten (10) years following Substantial Completion (both (i) and (ii), the "Artist Workspace Term").

(2) "Community Facility Space" means the space allocated to the Community Facility Use and is anticipated to include Condominium Unit 3 and Condominium Unit 7 as is depicted on the site plan attached hereto as Exhibit A-3.

(3) "Community Facility Use" means the use as described in this Article 8 and in the Project Commitments to include the Educational Program Use, as defined below, in Condominium Unit 3, and not-for-profit Community Facility Use in Condominium Unit 7 to be used as Artist Workspace and/or for physical fitness related activities, the arts and culture (such as without limitation music, dance, painting and sculpting), education, hobbies and crafts, day care and other family services, health and wellness services, social services and other similar activities directed towards providing services and/or activities relating to the health and well-being of the general public (which may include a membership requirement, provided that membership is available to the general public on a non-discriminatory basis) provided such use falls within either use group 3 or 4 of the Zoning Resolution. Not more than approximately 1,000 square feet of the remaining Community Facility Space in Condominium Unit 7 may be used for ancillary purposes related to Educational Program Use.

(4) "Educational Program Space" means the Condominium Unit 3 space including the interior classrooms, office space, and outdoor recreation space as depicted on the site plan attached hereto as Exhibit A-3 and built in accordance with the design guidelines and plans and/or specifications provided and/or approved by DOE, SCA and the New York City Department of Health and Mental Hygiene and the Approved Plans and Specifications.

(5) "Educational Program Use" means use of the Educational Program Space for the Term by DOE or its designee, including but not limited to SCA, pursuant to the terms of a Sublease between Non-LIHTC LLC and DOE or its designee, including SCA (which may assign the Sublease to DOE) or any other subtenant approved by Landlord and/or Lease Administrator in its sole discretion ("Educational Program Subtenant"), substantially in the form

attached hereto as Exhibit G ("DOE Sublease") and as set forth in the Project Commitments, including but not limited to the following terms:

(i) following Substantial Completion of Building 2A, Tenant or its Affiliate will sublease the Educational Program Space to Educational Program Subtenant for a nominal fee;

(ii) all common elements or equipment that are shared between the Tenant or its Affiliate and Educational Program Subtenant will be maintained and paid for by the Tenant or its Affiliate except as set forth in the DOE Sublease or otherwise agreed to by the Landlord or Lease Administrator;

(iii) all operating and maintenance costs directly and exclusively associated with the Educational Program Space will be paid for by Educational Program Subtenant; and

(iv) in the event the Educational Program Subtenant surrenders the Educational Program Space, at the Landlord's option, Tenant shall, consistent with the financial and maintenance terms set forth in (i) through (iii) above, (x) execute a new sublease or amend the DOE Sublease for a Community Facility Use to be used by a subtenant approved by Landlord or Lease Administrator in its sole discretion, and (y) as applicable, consent to a modification of the certificate of occupancy to allow for Community Facility Use in the Educational Program Space, request that lenders not unreasonably withhold consent to such modification and require that the following language in substance be included in lender mortgage instruments:

> If, pursuant to Section 8.01(a)(5)(iv) of the Ground Lease, Borrower requests that Lender consent to a modification of the certificate of occupancy for the Project to allow for a Community Facility Use (as such term is defined in the Ground Lease) in the Educational Program Space, the mortgagee shall not unreasonably withhold, condition or delay its consent.

(6) "Garage Space Use" means use for the operation of a parking garage for the public and other uses ancillary to public parking operations subject to the terms of Exhibit B of the Regulatory Agreement.

(7) "Non-Residential Space" means the Community Facility Space.

(8) "Open Green Space" means open landscaped space that is available for use by the residents and users of the Premises or the general public and is depicted on the site plan attached hereto as Exhibit A-3.

(9) "Open Green Space Use" means open landscaped space that is available for use by the residents and users of the Premises or the general public.

(10) "Residential Space" means dwellings occupied by residential tenants, excluding transient dwelling use, and is depicted on the site plan attached hereto as Exhibit A-3.

(11) "Residential Use" means use as dwellings for occupancy by residential tenants (excluding transient dwelling use). For the term of the Regulatory Agreement, such use shall be in accordance with the terms of such Regulatory Agreement, and for the entire Term, use, as applicable, shall be pursuant to the MIH Program.

(b) Tenant shall cause each component of the Project to be occupied for the purposes, in the amounts of space, and within the time frames set forth in Project Commitments and above. Tenant shall keep Landlord informed in writing, on a current basis (no less than every sixty (60) days commencing twenty (20) months after the Lease Commencement Date), of the steps being taken by Tenant initially to sublease the Non-Residential Space. Furthermore, on an annual basis, Tenant shall certify to Landlord and Lease Administrator (the "Annual Certification") in writing that (A) it is in compliance with the requirements set forth above with respect to all Non-Residential Space use including, but not limited to, the Artist Workspace use and Community Facility Space use or (B) to the extent it is not in compliance with respect to any Non-Residential Space, identifying (i) such Non-Residential Space, (ii) the nature of the non-compliance and (iii) the steps being taken to address such non-compliance. The Annual Certification to be provided by Tenant shall indicate whether Tenant anticipates any difficulty in meeting the requirements relative to any Non-Residential Space during the forthcoming year, identifying the nature of the anticipated difficulty and the steps proposed to be taken by Tenant to address the same. Tenant shall provide notice to Landlord in the event that the Community Facility Space is less than 75% leased for a period of twelve (12) consecutive months. At its option, Landlord, Lease Administrator may request that Tenant and/or the operator of the Artist Workspace ("Artist Workspace Operator"), if any, provide financial statements documenting the operating expenses and rent charged, as well as certifications regarding compliance with Artist Workspace requirements.

(c) Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Section 8.02 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any Person. Tenant shall obtain and maintain (or require any Subtenant to obtain and maintain) in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply (or require any Subtenant to comply) with any other applicable Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use. Tenant shall not use or occupy the Premises or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any applicable Requirement, the certificate of occupancy or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises or any subtenant, as applicable, using any portion of the Premises for any such business, use or purpose. The provisions of this Section shall not restrict Tenant's rights to contest any Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 Hazardous Substances.

(a) Tenant covenants that the Premises shall be kept free of Hazardous Substances. Tenant shall not use, transport, store, dispose of or in any manner deal with Hazardous Substances at the Premises except as and to the extent permitted by Environmental Law. Tenant shall not cause or permit, as the result of any intentional or unintentional act or omission on the part of Tenant, and/or their respective Representatives, occupants, invitees and licensees to release Hazardous Substances in, from, at or onto any portion of the Premises in violation of any Environmental Laws.

(b) The Premises shall be delivered "as-is". As of the Lease Commencement Date, Tenant shall assume all liability for Hazardous Substances on the Premises from that day forward until the end of the Term, including but not limited, to the disturbance of any pre-existing conditions, except that Tenant shall have no liability for claims made by third parties relating to any tort or environmental liabilities under any Environmental Law for any injury suffered during the period prior to the date when Tenant took possession of the Premises. Further, Tenant shall not be responsible for liability for Hazardous Substances to the extent arising from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors. Notwithstanding the previous sentence, to the extent pre-existing conditions are disturbed as a result of actions that occur during Tenant's occupancy of the Premises, Tenant shall be responsible for any resulting liability (except for liability for third party actions referenced in the second sentence of this paragraph). For the purposes hereof, Tenant's possession of the Premises shall be deemed to include, but not be limited to, any period during which Tenant made use and/or occupancy of the Premises. In the event any Hazardous Substances shall be found within, under, or upon the Premises, Tenant shall (x) promptly take or cause to be taken any action required by a Governmental Authority under any applicable Environmental Laws with respect to such Hazardous Substances, (y) notify Landlord of the discovery of any occurrence or conditions on the Premises, or any real property adjoining or in the vicinity of the Premises to the extent that Tenant has knowledge of same, provided that Tenant shall have no duty to make independent inquiry or investigation unless required by any applicable law, and solely to the extent the occurrence or conditions is or are reasonably likely to cause the Premises or any part thereof to be subject to any liability or action under any Environmental Law, and (z) notify Landlord of

any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Premises pursuant to any applicable Environmental Law. The expense for all such action shall be the responsibility of the Tenant, except that Tenant shall not have any duty to pay for or to reimburse Landlord for any costs or expenses resulting from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors, and Landlord shall bear all costs and expenses for any such negligent acts or omissions. All action with respect to any Hazardous Substances on the Premises shall be performed in accordance with all Requirements and receive the necessary regulatory department sign offs. To the extent Landlord shall not incur any cost, Landlord shall make good faith efforts to cooperate with Tenant in Tenant's efforts to obtain any necessary regulatory department sign offs. Notwithstanding the above, provided the Requirement specifically provides for challenge or deferral, Tenant shall have the right to so challenge and defer compliance with such Requirement in accordance with the terms therewith, if no dangerous or hazardous condition then exists or would be caused or lien would be created by such deferral and Tenant complies with the reasonable requirements of the Landlord regarding the Hazardous Substances at issue. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this Article, Tenant shall submit or cause to be submitted to Landlord a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. Tenant shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide Landlord with an updated schedule.

(c) Tenant shall defend, indemnify and save the Indemnitees harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, court costs and reasonable attorneys' fees and disbursements, that may be imposed upon, or incurred by, or asserted against, any of the Indemnitees (i) arising out of, or in any way related to the presence, storage, transportation, disposal, release or threatened release of any Hazardous Substances over, under, in, on, from or affecting the Premises, and any persons, real property, Personal Property, or natural substances thereon or affected thereby during the Term of this Lease, including, without limitation, any such liability, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses imposed upon, incurred by or asserted against Landlord, Landlord's Agent, NYCLDC or the Lease Administrator under CERCLA, and (ii) any violations of applicable environmental laws. The indemnity provisions set forth in Article 23 shall also apply to the indemnity obligations of Tenant set forth in this Section.

(d) Tenant shall comply with or cause to be complied with all applicable federal, state and local laws concerning any Hazardous Substance that Tenant or other occupant of the Premises produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Premises or transports from the Premises. Tenant shall also comply with all applicable federal, state, and local laws related to the health and safety of its employees.

Section 8.05 No Representations or Warranty by Landlord.

(a) Neither Landlord nor Lease Administrator has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord nor Lease Administrator has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor Lease Administrator, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and Lease Administrator, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

ARTICLE 9
EASEMENTS

Section 9.01 Access to Facilities. Landlord hereby reserves for itself and Lease Administrator, and their respective officers, employees, agents, servants and representatives, a non-exclusive easement for ingress and egress to, from and over the Premises for the following purposes: (i) to maintain, repair and replace existing municipal facilities located within the Premises, if any; and (ii) to maintain its fire communication facilities, sewers, water mains and street sub-surface below the Premises, if any. Access to the aforesaid easement areas shall be in Landlord's proprietary capacity and Landlord, and Lease Administrator shall have the right to enter upon the Premises with workers, materials and equipment to construct, reconstruct, lay, relay, maintain and inspect the facilities in or adjacent to the Premise, which entry shall be at reasonable times and upon reasonable prior written notice to Tenant (except in the case of emergencies in which instance no notice is necessary) from Landlord. Landlord shall (x) take reasonable steps to minimize interference with Tenant's and any Subtenant's operations when accessing the Premises pursuant to this Section 9.01, (y) comply with Tenant's reasonable site safety protocols and (z) to the extent reasonably possible, shall not cause Tenant to move or modify any of the Improvements except in exigent circumstances. Landlord shall as promptly as practicable reasonably repair or cause to be repaired any damage caused by Landlord or Lease Administrator from the exercise of its rights hereunder and Landlord or another party reasonably acceptable to Tenant shall indemnify Tenant against all damages claimed by Tenant or any third party in connection with such access and work.

ARTICLE 10
INTENTIONALLY DELETED

ARTICLE 11
INSURANCE

Section 11.01 Definitions and Interpretation.

(a) Definitions.

(1) "Additional Insureds" means Landlord, NYCLDC, and Lease Administrator, together with their respective officials, employees, members, directors, and officers.

ARTICLE 8
USE OF PREMISES

Section 8.01 Permitted Use.

(a) Subject to the provisions herein, Tenant shall use the Premises for the sole purposes of Residential Use, Commercial Use, Community Facility Use, Green Space Use and accessory parking as described in Exhibit D, with respect to each portion of the Premises so indicated for such use in Exhibit D, and uses accessory thereto (the "Permitted Uses"). In furtherance of the foregoing, the Residential Space component shall include not less than 183 housing units constituting approximately 177,291 square feet of space, to be used pursuant to the terms of the Regulatory Agreement until same is no longer in effect, and thereafter for Residential Use. For purposes of this Lease:

(1) "Artist Workspace" means space operated by one or more not-for-profit entities for the practice of the fine arts such as, but not limited to, painting, sculpting, writing, photography, filmmaking, dance, theatre and music, the improvement of which has been subsidized with funding from the City's Department of Cultural Affairs (or its successor in function (collectively, "DCLA")) or any City agency or instrumentality designated by DCLA to provide such funding, and the use of which space is in accordance with the terms of such funding. For sake of clarity, use of space primarily for commercial for-profit public entertainment, such as a movie theatre, playhouse, dance hall, cabaret, supper club, disco, night club or the like would not qualify as Artist Workspace, and Artist Workspace shall encompass up to the entire Community Facility Space.

(2) "Commercial Space" means the space used for retail sales and services or any other commercial use and is depicted on the site plan attached hereto as Exhibit A-3.

(3) "Commercial Use" means office use or retail sales and services or any other commercial use.

(4) "Community Facility Space" means facilities that are available to the general public (which may include a membership requirement, provided that membership is available to the general public on a non-discriminatory basis) for participation, training or practice of physical fitness related activities, the arts and culture (such as without limitation music, dance, painting and sculpting), education, hobbies and crafts, day care and other family services, health and wellness services, social services and other similar activities directed towards providing services and/or activities relating to the health and well-being of neighborhood residents and is depicted on the site plan attached hereto as Exhibit A-3.

(5) "Community Facility Use" means use for physical fitness related activities, the arts and culture (such as without limitation music, dance, painting and sculpting), education, hobbies and crafts, day care and other family services, health and wellness services, social services and other similar activities directed towards providing services and/or activities relating to the health and well-being of neighborhood residents provided such use falls within either use group 3 or 4 of the Zoning Resolution.

(6) "Green Space" means open landscaped space that is available for use by the residents and users of the Premises or the general public and is depicted on the site plan attached hereto as Exhibit A-3.

(7) "Green Space Use" means open landscaped space that is available for use by the residents and users of the Premises or the general public.

(8) "Non-Residential Space" means the Commercial Space and the Community Facility Space.

(9) "Residential Space" means dwellings occupied by residential tenants, excluding transient dwelling use, and is depicted on the site plan attached hereto as Exhibit A-3.

(10) "Residential Use" means use as dwellings for occupancy by residential tenants (excluding transient dwelling use). For the term of the Regulatory Agreement, such use shall be in accordance with the terms of such Regulatory Agreement, and for the entire Term, use, as applicable, shall be pursuant to the MIH Program.

(b) Tenant shall cause each component of the Project to be occupied for the purposes, in the amounts of space, and within the time frames set forth in Exhibit D. Tenant shall keep Landlord informed in writing, on a current basis (no less than every sixty (60) days commencing twenty (20) months after the Lease Commencement Date), of the steps being taken by Tenant initially to sublease the Non-Residential Space. Furthermore, on an annual basis, Tenant shall certify to Landlord and Lease Administrator (the "Annual Certification") in writing that (A) it is in compliance with the requirements set forth above with respect to all Non-Residential Space use including, but not limited to, the Artist Workspace use and Community Facility Space use or (B) to the extent it is not in compliance with respect to any Non-Residential Space, identifying (i) such Non-Residential Space, (ii) the nature of the non-compliance and (iii) the steps being taken to address such non-compliance. The Annual Certification to be provided by Tenant shall indicate whether Tenant anticipates any difficulty in meeting the requirements relative to any Non-Residential Space during the forthcoming year, identifying the nature of the anticipated difficulty and the steps proposed to be taken by Tenant to address the same. Tenant shall provide notice to Landlord in the event that either the Community Facility Space or the Commercial Space is less than 75% leased for a period of twelve (12) consecutive months. At its option, Landlord, Lease Administrator or DCLA may request that Tenant and/or the operator of the Artist Workspace ("Artist Workspace Operator") provide financial statements documenting the operating expenses and rent charged, as well as certifications regarding compliance with Artist Workspace requirements.

(c) Except as provided herein, Tenant shall not use the Premises or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its sole discretion.

Section 8.02 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain

and maintain in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 8.03 Unlawful Use. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises. Immediately, upon the discovery of any such unlawful, illegal or hazardous business, use or purpose, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises or any subtenant, as applicable, using any portion of the Premises for any such business, use or purpose. The provisions of this Section shall not restrict Tenant's rights to contest any Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof, or that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the Fire Department, Board of Fire Underwriters, Fire Insurance Rating Organization and other authority having jurisdiction over the Premises.

Section 8.04 Hazardous Substances.

(a) Tenant shall not cause or permit, as the result of any intentional or unintentional act or omission on the part of Tenant, and/or their respective Representatives, occupants, invitees and licensees to release Hazardous Substances in, from, at or onto any portion of the Premises in violation of any Environmental Laws.

(b) The Premises shall be delivered "as-is". As of the Lease Commencement Date, Tenant shall assume all liability for Hazardous Substances on the Premises from that day forward until the end of the Term, including but not limited, to the disturbance of any pre-existing conditions, except that Tenant shall have no liability for claims made by third parties relating to any tort or environmental liabilities under any Environmental Law for any injury suffered during the period prior to the date when Tenant took possession of the Premises. Further, Tenant shall not be responsible for liability for Hazardous Substances to the extent arising from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors. Notwithstanding the previous sentence, to the extent pre-existing conditions are disturbed as a result of actions that occur during Tenant's occupancy of the Premises, Tenant shall be responsible for any resulting liability (except for liability for third party actions referenced in the second sentence of this paragraph). For the purposes hereof, Tenant's possession of the Premises shall be deemed to include, but not be limited to, any period during which Tenant made use and/or occupancy of the Premises. In the event any Hazardous Substances shall be found within, under, or upon the Premises, Tenant shall (x) promptly take or cause to be taken any action required by a Governmental Authority under any applicable Environmental Laws with respect to such Hazardous Substances, (y) notify Landlord of the discovery of any occurrence or conditions on the Premises, or any real property adjoining or in the vicinity of the Premises to the extent that Tenant has knowledge of same, provided that Tenant shall have no duty to make

independent inquiry or investigation unless required by any applicable law, and solely to the extent the occurrence or conditions is or are reasonably likely to cause the Premises or any part thereof to be subject to any liability or action under any Environmental Law, and (z) notify Landlord of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted or threatened against the Premises pursuant to any applicable Environmental Law. The expense for all such action shall be the responsibility of the Tenant, except that Tenant shall not have any duty to pay for or to reimburse Landlord for any costs or expenses resulting from any negligent acts or omissions of Landlord, NYCLDC or NYCEDC and/or any of their respective agents, representatives and contractors, and Landlord shall bear all costs and expenses for any such negligent acts or omissions. All action with respect to any Hazardous Substances on the Premises shall be performed in accordance with all Requirements and receive the necessary regulatory department sign offs. To the extent Landlord shall not incur any cost, Landlord shall make good faith efforts to cooperate with Tenant in Tenant's efforts to obtain any necessary regulatory department sign offs. Notwithstanding the above, provided the Requirement specifically provides for challenge or deferral, Tenant shall have the right to so challenge and defer compliance with such Requirement in accordance with the terms therewith, if no dangerous or hazardous condition then exists or would be caused or lien would be created by such deferral and Tenant complies with the reasonable requirements of the Landlord regarding the Hazardous Substances at issue. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this Article, Tenant shall submit or cause to be submitted to Landlord a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. Tenant shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide Landlord with an updated schedule.

(c) Tenant shall defend, indemnify and save the Indemnitees harmless from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, court costs and reasonable attorneys' fees and disbursements, that may be imposed upon, or incurred by, or asserted against, any of the Indemnitees (i) arising out of, or in any way related to the presence, storage, transportation, disposal, release or threatened release of any Hazardous Substances over, under, in, on, from or affecting the Premises, and any persons, real property, Personal Property, or natural substances thereon or affected thereby during the Term of this Lease, including, without limitation, any such liability, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses imposed upon, incurred by or asserted against Landlord, Landlord's Agent, NYCLDC or the Lease Administrator under CERCLA, and (ii) any violations of applicable environmental laws. The indemnity provisions set forth in Article 23 shall also apply to the indemnity obligations of Tenant set forth in this Section.

(d) Tenant shall comply with or cause to be complied with all applicable federal, state and local laws concerning any Hazardous Substance that Tenant or other occupant of the Premises produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Premises or transports from the Premises. Tenant shall also comply with all applicable federal, state, and local laws related to the health and safety of its employees.

Section 8.05 No Representations or Warranty by Landlord.

(a) Neither Landlord nor Lease Administrator has made or makes any representation or warranty as to the condition of the Premises or its suitability or legality for any particular use or the intended use or as to any other matter affecting this Lease or the Premises.

(b) Neither Landlord nor Lease Administrator has made or makes any representation as to the legality of the use of the Premises for Tenant's intended purposes. If any use or proposed use is determined to be illegal by a court of competent jurisdiction, subject to the terms hereof, Tenant agrees that (i) neither Landlord nor Lease Administrator, nor any of their respective directors, officers, employees or agents shall be liable for any damages incurred by Tenant or any third party as a result of, or in connection with such determination, or illegal use or proposed use, and (ii) Tenant shall defend, indemnify and hold harmless each of Landlord and Lease Administrator, and their respective directors, officers, employees and agents against any reasonable, out of pocket cost, liability or expense incurred by any of them in connection with such determination, or illegal use or proposed use in accordance with Article 23 hereof.

ARTICLE 9
INTENTIONALLY DELETED

ARTICLE 10
INTENTIONALLY DELETED

ARTICLE 11
INSURANCE

Section 11.01 Definitions and Interpretation.

(a) Definitions.

(1) "Additional Insureds" means Landlord, NYCLDC, and Lease Administrator, together with their respective officials, employees, members, directors, and officers.

(2) "ISO" means Insurance Service Offices, Inc. or any such other successor or replacement entity setting insurance industry standards.

(3) "Index" means the Dodge Building Cost Index or such other published index of construction costs which shall be selected from time to time by the Landlord, but not more often than once every three (3) years, provided that such Index shall be a widely recognized measure of construction costs in the insurance industry and appropriate to the type and location of the Insured Improvements

(4) "Insured Contractor" means any construction manager, contractor, subcontractor, and any further sub-subcontractors.

(5) "Insured Improvements" means all Improvements including but not limited to Equipment and fixtures that are located on the Premises or used in connection with operations under this Lease.

obligated to, discharge such lien of record by procuring the discharge of such lien by deposit or by bonding proceedings. Landlord may also compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances.

Section 22.2 Reimbursement for Amounts Paid by Landlord Pursuant to this Article. Any reasonable out-of-pocket amounts paid by Landlord pursuant to Section 22.1 (*Discharge of Liens*), including all costs and expenses incurred by Landlord in connection therewith, shall be reimbursed by Tenant within fifteen (15) days of Landlord's demand therefor, together with a late charge on the amounts so paid by Landlord, calculated at the Late Charge Rate from the date of any such payment by Landlord to the date on which payment of such amounts is received by Landlord.

Section 22.3 Waiver, Release and Assumption of Obligations. Landlord's payment or performance pursuant to the provisions of this Article XXII (*Landlord's Right to Discharge Liens*) shall not be, nor be deemed to be (a) a waiver or release of the Default or Event of Default with respect thereto (or any past or future Default or Event of Default) or of Landlord's right to take such action as may be permissible hereunder, or (b) Landlord's assumption of Tenant's obligations to pay or perform any of Tenant's past, present or future obligations hereunder.

Section 22.4 Proof of Damages. Landlord shall not be limited in the proof of any damages that it may claim against Tenant arising out of, or by reason of, Tenant's failure to provide and keep insurance in force in accordance with the provisions of this Lease to the amount of the insurance premium or premiums not paid. However, subject to the provisions of Section 40.8 (*Tenant's Liability*), Landlord shall be entitled to seek, and if successful, to recover, as damages for such Default or Event of Default, the uninsured amount of any loss and damage sustained or incurred by it and the reasonable out-of-pocket costs and expenses of any suit in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

ARTICLE XXIII
PERMITTED USE; CERTAIN OPERATING COMMITMENTS; CITY SQUARE

Section 23.1 Permitted Uses and Operating Requirements.

(a) Subject to the provisions herein, Tenant shall use, and may, in Tenant's sole discretion, permit each of CFG Stadium, NYCFC, Second Club and their respective Affiliates to use, the Premises solely for the following purposes: (i) hosting or convening soccer games or matches at the Stadium (including men's, women's, and youth teams), including any contemporaneous and related uses, activities, and/or utilization of all or a portion of City Square and/or the Open Space, (ii) hosting or convening other sporting events at the Stadium, including any contemporaneous and related uses, activities, and/or utilization of all or a portion of City Square and/or the Open Space, (iii) hosting concerts, festivals, exhibitions, trade shows, conferences, and other commercial and/or entertainment events at the Stadium, including any contemporaneous and related uses, activities, and/or utilization of all or a portion of City Square and/or the Open Space, (iv) signage, advertising, commercial partner activation, branding, and naming rights, (v) office use, so long as such use is ancillary to the use of the Stadium for the purposes described in clauses (i) through (iv) above, (v) retail sales and services, so long as such

uses are ancillary to the use of the Stadium for the purposes described in clauses (i) through (iv) above, (vi) food and beverage outlets and/or facilities, so long as such uses are ancillary to the use of the Stadium for the purposes described in clauses (i) through (iv) above, (vii) such other sporting, commercial and/or entertainment events or uses as are ancillary to the use of the Stadium for the purposes described in clauses (i) through (iv) above and that are consistent with uses then being made, from time to time, at any one or more Comparable Facilities, (viii) hosting or convening, or permitting various community groups to host or convene (in accordance with the provisions of Section 23.6 (*City Square*)) public and/or community based events at the Open Space and/or City Square, (ix) allowing recreational uses of the Stadium, City Square, and/or the Open Space consistent with the use of similar space at Comparable Facilities, (x) administrative offices of CFG Stadium, NYCFC, and their respective Affiliates, and (xi) any other uses as may be approved by Landlord in its reasonable discretion (the uses described in clauses (i) through (xi) above, collectively, the "Permitted Uses"). Except as provided herein, Tenant shall not use the Premises for a Prohibited Use or permit the Premises to be used for any other purpose except with the prior written approval of Landlord to be given in its reasonable discretion.

(b) Tenant acknowledges and agrees that its ongoing commitment to use and operate the Project in accordance with the Project Commitments and otherwise in accordance with this Article XXIII (*Permitted Use; Certain Operating Commitments; City Square*) is of vital importance to Landlord, and a material inducement to Landlord in agreeing to enter into this Lease, and that Tenant's failure to do so in accordance with the provisions set forth in this Article XXIII (*Permitted Use; Certain Operating Commitments; City Square*) shall constitute a material breach under the terms of this Lease. Accordingly, at all times during the Term, Tenant shall comply with the use and operating requirements for the Project set forth in this Article XXIII (*Permitted Use; Certain Operating Commitments; City Square*) (collectively, the "Use and Operating Requirements"), and otherwise operate the Project in accordance with the Project Commitments.

(c) Tenant agrees to use and operate the Open Space consistent with the following:

(i) The Open Space shall be open as required by that certain Restrictive Declaration ("Open Space Declaration") recorded or to be recorded concurrently with the Memorandum of Lease in the Register's Office. The Open Space Declaration shall be in the form prescribed by the City Planning Commission.

(ii) Subject to any contrary provision contained in the Open Space Declaration, any closures of the Open Space must be temporary (not exceeding 48 consecutive hours), except as reasonably necessary to make capital improvements or emergency repairs.

(iii) Subject to any contrary provision contained in the Open Space Declaration, Tenant shall maintain the landscaping of the Open Space (including any flowers, shrubbery, trees, grass, and planters) and all bollards on the Open Space in compliance with all applicable Requirements, this Lease, and commensurate with the Baseline Operating/Maintenance Standard. All materials incorporated into the Open Space shall be at least equal in all material respects to the quality and class of the original materials incorporated as part of the Initial Construction Work, and all repairs made or caused to be made by Tenant shall be at least equal in all material respects to the quality and class of the original work completed as part of the Initial Construction Work.

(iv) Tenant shall not have the right to charge fees for entry or use of, or otherwise monetize its interest in, the Open Space.

(d) Notwithstanding anything to the contrary in this Lease, the Permitted Uses of the Stadium Corner Parcels shall be limited to the following:

(i) The portion of the Stadium Corner Parcels that was Block 1823, Lot 12 immediately prior to the Tax Lot Merger may only be used for (i) egress purposes and as the location of utility and back of house mechanical infrastructure serving the Stadium and/or (ii) such other uses as may hereafter be approved by Landlord, acting in Landlord's reasonable discretion.

(ii) The Permitted Uses for Block 1823, Lot 1 have not yet been determined. Tenant shall obtain Landlord's approval (in Landlord's reasonable discretion) for the Permitted Uses of this lot. Block 1823, Lot 1 must be continuously activated, during Tenant Events, from the Stadium Completion Date until the date of commencement of construction of permanent improvements on this lot. If Tenant fails to: (A) obtain Landlord's approval of activation measures and/or thereafter continuously activate such lot during Tenant Events, from the Stadium Completion Date until the date of commencement of construction of permanent improvements on this lot, or (B) obtain Landlord's approval in its sole discretion of the permanent improvements on such lot, commence construction of such improvements within two (2) years after the Stadium Completion Date, and complete construction of such permanent improvements in accordance with Article XIII (*Construction Work*) within five (5) years after the Stadium Completion Date, subject to Unavoidable Delays; then in any case, Landlord shall have the right on at least ninety (90) days advance written notice to Tenant to terminate the Lease, as to such lot only.

(iii) Notwithstanding anything to the contrary in Sections 23.1(d)(i) or (ii), Tenant shall obtain Landlord's approval (in Landlord's sole discretion) for any permanent improvements (other than utility and back of house mechanical infrastructure constructed as part of the Initial Construction Work) to be constructed on the Stadium Corner Parcels (as if such improvements were Major LL Approval Construction Work, except that Landlord's approval of such improvements shall be in its sole discretion).

(e) Tenant may in its operation of the Premises use facial recognition or similar technology that is capable of matching a human face from a digital image or a video frame against a database of faces, except if a purpose of the use of such technology is to exclude certain individuals or categories of individuals or is for discriminatory purposes; provided, however, that Tenant may use such technology in the event of a bona fide emergency, in cooperation with law enforcement, or in connection with the validation of admission tickets and/or non-discriminatory entry rights.

(f) The Stadium shall include (and Tenant shall construct within the Stadium at its expense as part of the Initial Construction Work) a facility (the "NYPD Facility") for the New York City Police Department ("NYPD") which will (i) be located in the area identified on the floor plan attached hereto as Exhibit K (the "NYPD Facility Plans") which NYPD Facility Plans previously have been approved by NYPD (including, without limitation, two dedicated parking spaces in the service entrance parking area located outside the NYPD Facility) and (ii) be

constructed in accordance with the plans and specifications included in the NYPD Facility Plans. Notwithstanding anything to the contrary set forth in this Lease, any and all uses by the NYPD of the NYPD Facility will be a Permitted Use. The NYPD Facility will be designed and constructed in accordance with NYPD Facility Plans, as the same may hereafter be amended by mutual agreement of Tenant and NYPD (x) at Tenant's expense, with respect to the core and shell components of the NYPD Facility (including, all demising walls, interior dividing walls, and all utility equipment and connections (but excluding fixtures and interior distribution systems) and (y) at NYPD's expense, with respect to the interior fit-out, furnishings, decorative installations and floor/wall finishes, fixtures and equipment, all interior utility distribution systems, including all specialty data equipment and computer equipment (including any dedicated and private data connection to the NYPD grid), which shall be supplied and installed by NYPD). The NYPD Facility will be made available for the exclusive use of the NYPD throughout the Term on a rent-free basis. The NYPD will be provided access to the NYPD Facility during all Tenant Events and for a period of four (4) hours prior to the commencement and four (4) hours after the end of all Tenant Events. As and to the extent depicted or described on the NYPD Facility Plans, Tenant shall supply utility and other services (including water, heating and cooling, electricity, cleaning and trash removal) to the NYPD Facility at no charge. Tenant shall, upon request by NYPD, bring data and telecommunications lines to the NYPD Facility, but the NYPD shall be responsible for all third party use charges for data/telecom services. NYPD shall be required to maintain the NYPD Facility throughout the Term in a state of good order and repair, and comparable to similar NYPD facilities. Tenant shall comply with all security protocols, with respect to the NYPD Facility, which may hereafter be established by the NYPD from time to time (including, without limitation, with respect to restricting access to the NYPD Facility and surrounding areas). Tenant shall comply with and perform all other requirements or obligations that may be agreed from time to time between Tenant and NYPD with respect to the NYPD Facility and/or the NYPD's operations on the Premises, and Landlord shall not be responsible for same (or any cost or expense related thereto).

Section 23.2 Prohibited Uses; No Smoking. Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any Prohibited Use. Promptly, upon the discovery of any such Prohibited Use, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including but not limited to, if necessary, the removal from the Premises of any subtenant, as applicable, using any portion of the Premises for any such Prohibited Use. The provisions of this Section shall not restrict Tenant's rights to contest any Requirements. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may constitute a public or private nuisance, or any other article, object, item, substance or thing, except as now or hereafter permitted by the New York City Fire Department, New York Board of Fire Underwriters, New York Fire Insurance Rating Organization and other authority having jurisdiction over the Premises. Smoking of any kind (including electronic cigarettes, personal vaporizer, or electronic nicotine delivery system) or of any substance is strictly prohibited on or about the Premises except in one or more enclosed areas within the interior of the Stadium serviced by a separate air handling system that confines the smoke within such enclosed area and does not permit the smoke to escape outside of such enclosed area unless prohibited by applicable Requirements.

Section 23.3 Requirements for Conduct of Business. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use

to Landlord, may remove the obstruction and Landlord shall reimburse Tenant for the reasonable cost thereof.

ARTICLE 9

USE OF PREMISES

Section 9.01. Permitted Use. Except as otherwise provided in this Section, Tenant shall use and occupy the Premises, and shall permit the Premises to be used, only for the development and operation of a maritime dependent materials recovery facility (the "**Facility**") pursuant to and in accordance with Article 18 hereof and applicable provisions of the Recycling Contract. Tenant additionally may use the Premises ("**Additional Uses**") (i) to receive, store, process and ship recyclable material derived from commercial sources and (ii) for use as a scrap yard for materials, paper, metals and glass (or other value added operations) and ancillary uses thereto. Any Additional Use shall be subject to Landlord's and DSNY's review and written approval, which shall not be unreasonably withheld, conditioned or delayed. DSNY's right of review and approval as provided above shall primarily consider and be exercised in relation to operational considerations respecting the delivery and Acceptance of Recyclable Material under the Recycling Contract, and Landlord's right of review and approval as provided above shall primarily consider and be exercised in relation to health, safety and other applicable Requirements. Any Construction Work required in connection with an Additional Use shall be subject to the provisions of Article 17.

Section 9.02. Authority to Conduct Business.

(a) This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party.

(b) Except as provided in Sections 3.05 or 15.01, in Article 7, or in Exhibit E hereof, Tenant shall obtain and maintain in full force and effect during the Term, at its sole cost and expense, any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises by Tenant for the purposes authorized by this Lease.

Section 9.03. Unlawful Use. Tenant shall not operate its business in a hazardous manner or use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease, or in such manner as may make void or voidable any insurance then in force with respect to the Premises; provided, however, Tenant shall not be responsible for DSNY's or Landlord's (or their respective Invitees') acts. Immediately upon the discovery of any such unlawful, illegal or hazardous business, use or purpose by Tenant or anyone acting by, through or under Tenant, Tenant shall take all necessary steps, legal and equitable, to compel the discontinuance thereof, including if necessary, the removal from the Premises of any Person using any portion of the Premises for any such

business, use or purpose. Tenant shall not keep, or permit to be kept, on the Premises any article, object, item, substance or thing that may cause damage to the Premises or any part thereof (except in the ordinary course of conduct in connection with the uses permitted hereunder), or that is prohibited or not permitted by the Fire Department, Board of Fire Underwriters, or other authority having jurisdiction over or setting standards covering the Premises.

Section 9.04. Representations by Landlord; No Permit.

(a) Except as otherwise stated in this Lease or the Recycling Contract, neither Landlord nor any Person on its behalf has made or makes any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this Lease or the Premises.

(b) Landlord represents to Tenant that the Premises is zoned so as to permit and, subject to the receipt of all lawfully required permits and approvals and compliance with all Requirements, the Premises may be developed and used for the principal purpose stated in this Lease. Landlord has no knowledge or information that the intended or permitted use of the Premises hereunder is contrary to law or that legally required permits and approvals and permits will not be forthcoming.

(c) It shall be an Event of Termination if (i) there is an Unavoidable Delay that extends the Facility Completion Deadline for more than 18 months (and such Unavoidable Delay would not give rise to an Event of Termination under another provision of this Lease or the Funding Agreement), or (ii) the principal use of the Premises as contemplated by this Lease is finally determined to be not permitted by a court of competent jurisdiction, or (iii) this Lease or a required permit, registration or approval is revoked or declared void or invalid, or (iv) despite all good faith efforts by the Party responsible for obtaining the particular permit or approval, including (in the case of Tenant) the taking of all steps reasonably recommended by Landlord, (A) any permit or approval required for the initial construction or commencement of operation of the Facility, but not including a certificate of occupancy or certificate of completion, is unable to be obtained within 18 months after the Effective Date, (B) any other permit or approval later required during the Term (including a Part 360 Permit, if such permit was not required for the initial construction or commencement of operation of the Facility) is unable to be obtained by the date required to avoid interruption of operation of the Facility, or (C) any permit or approval referred to in clause (A) or (B) above, having been obtained, is unable to be maintained, renewed or extended as required throughout the Term, or (v) despite all good faith efforts by Landlord and Tenant (as applicable), a certificate of occupancy or certificate of completion has not been issued within 60 days after the date the applicable portion of the Facility would have been Substantially Complete and capable of operating as contemplated by the Recycling Contract, but for the failure of the issuance of a certificate of occupancy or certificate of completion.

(d) (i) Notwithstanding anything to the contrary in this Lease or in the Part 360 MOU, Landlord shall pay Liquidated Damages (as defined below) to Tenant if either of the following shall have failed to occur by December 31, 2008 (as such date may be extended below or by agreement of the Parties, the "**DEC Deadline**"): (x) execution and delivery of the Part 360 MOU by the City, DSNY and DEC and/or (y) issuance/validation of the Part 360 Registration

(d) Tenant agrees to pay and/or discharge, or to cause its Subtenants to pay and/or discharge, any penalty, interest, charge or lien incurred as a result of a delay in payment of such Imposition or the contesting of such Imposition.

Section 5.05 Survival. The provisions of Sections 5.01 through 5.04 (inclusive) of this Article 5 shall survive the expiration or earlier termination of this Lease.

ARTICLE 6

INTENTIONALLY OMITTED

ARTICLE 7

INTENTIONALLY OMITTED

ARTICLE 8

INTENTIONALLY OMITTED

ARTICLE 9

USE OF PREMISES

Section 9.01 Permitted Use. The letting of the Premises by the City and the authorization of its use are for the express purpose of creating manufacturing and industrial space within the City of New York in order to promote and increase employment opportunities within the City, and for the purposes set forth in the Plan. It is agreed that if any portion of the Premises are subleased, or this Lease is assigned, such subletting or assignment shall be in accordance with the provisions of Article 14 hereof and shall be solely for industrial and manufacturing purposes, and purposes ancillary thereto, and in accordance with the provisions of the Plan and for no other purpose (collectively referred to as the "**Permitted Use**").

Section 9.02 Urban Renewal Plan Compliance: Requirements for Conduct of Business. Tenant shall develop and operate the Premises in accordance with the requirements of the Plan. This Lease does not grant any permission, license or authority for the performance or conduct of any business, operation or use which may require any permit or approval from any public or private party. Tenant shall obtain and maintain, or cause its Subtenants to obtain and maintain, as applicable, in full force and effect during the Term at its sole cost and expense any governmental license or permit imposed or mandated by any Governmental Authority in connection with Tenant's (or Subtenants') trade or business and the use of the Premises, and shall comply with any other Requirement for the proper and lawful operation of the Premises for the purposes authorized by this Lease.

Section 9.03 Unlawful and Prohibited Uses.

(a) Tenant shall not use or occupy the Premises, or permit or suffer the Premises or any part thereof to be used or occupied, for any unlawful, illegal, or hazardous business, use or purpose or in any way in violation of any Requirement or this Lease.

(b) Tenant shall not use or occupy the Premises or permit or suffer the Premises or any part thereof to be used or occupied for the Prohibited Uses. "**Prohibited Uses**" means, individually and collectively, the following uses on the Premises or any portion thereof:

(i) the operation on the Premises of a so-called "flea market";

(ii) selling or displaying for sale any "adult printed or visual material" as defined in the definition of "Adult Establishment" under the City's Zoning Resolution;

(iii) use as a gambling or gaming establishment (including as an Off-Track Betting, sport gambling, casino gambling or similar establishment);

(iv) use as an office, store, reading room, headquarters, center or other facility devoted or opposed to the promotion, advancement, representation, purpose or benefit of: (a) any political party, political movement or political candidate, (b) any religion, religious group or religious denomination, (c) any foreign government, or (d) any "cause" of a political or religious type or nature;

(v) the operation of any establishment the primary purpose or products of which are sexual in nature;

(vi) operating a so-called "head shop" or a facility for the sale of bongs, coke spoons, roach clips and/or other drug paraphernalia;

(vii) operating a pawn shop or auction house;

(viii) illegal or hazardous business; and

(ix) operation of a business in violation of the certificate of occupancy (unless with permission from the City's Department of Buildings) or in a manner to make void or voidable any insurance with respect to the Premises.

(c) Notwithstanding the foregoing, Landlord acknowledges and consents to (i) use of the Premises for the use provided in Article IV of the Perrigo Lease and (ii) use of Hazardous Materials on the Premises in accordance with all applicable Requirements.

Section 9.04 Signage. Tenant shall at its own cost and expense erect and maintain project signs identifying the interest of the City of New York in the Premises.

Section 8.02 Sunken Craft. Tenant shall promptly raise and remove or cause to be raised and removed any and all objects of any kind, including vessels or other floating structures and equipment (whether or not intended to be floating), owned or operated by Tenant, or by a corporation, company or other organization or Person affiliated with Tenant or for which Tenant acts as agent, stevedore or terminal operator (or of others going to or from the Premises on business with Tenant) which shall have sunk, settled or become partially or wholly submerged at the Premises, in each case that have sunk, settled or become partially or wholly submerged due to the negligence of Tenant in the operations of the Premises. Additionally, Tenant shall endeavor to cooperate with any other parties and to expedite the removal of any other vessels or other floating structures and equipment that have sunk, settled or become partially or wholly submerged at the Premises. Tenant shall include language in the Manhattan Cruise Terminal Tariff Regulations posted on its website requiring all vessels docking at the Premises to carry customary and appropriate protection and indemnity insurance (including wreck removal coverage).

ARTICLE 9

USE OF PREMISES

Section 9.01 Permitted Uses. Tenant shall use and occupy the Premises for the primary purposes of operating the Manhattan Cruise Terminal as a marine terminal (the "Primary Use"). Provided the following are ancillary to the operation of the Premises for the Primary Use (it being understood that the Primary Use shall be the predominant use of the Premises), Tenant shall be permitted to use the Premises, without Landlord's consent, for other uses which are consistent with the Primary Use, including without limitation, the following: (a) the handling, accommodation and servicing of passenger and military ships, and the handling, accommodation and servicing of Passengers, mail, visitors and associated cargo, and other activity incidental to such operations; (b) retail sales of goods and services at the Premises in connection with such operations; (c) the operation of a parking facility to provide space for the parking of motor vehicles for persons, (d) filming activities that have received a permit from the Mayor's Office of Media and Entertainment or its successor, (e) a facility for trade shows, conventions and Events set forth on Exhibit H, (e) for such other purposes and uses incidental thereto and consistent therewith, so as to provide for (i) the smooth, efficient and integrated operation of the Manhattan Cruise Terminal, (ii) the coordination of operations at the Manhattan Cruise Terminal with the proposed trade show operations on Piers 92 and 94; and (f) all ancillary operations under Participation Rent and Section 15.01 (collectively, the "Ancillary Uses", and together with the Primary Use, the "Permitted Uses").

Except for the Tenant Maintenance Obligations and Tenant Improvement Obligations, Tenant shall not use the Premises nor permit the Premises to be used for any other purpose other than the Permitted Uses without the prior written approval of Landlord, not to be unreasonably withheld, conditioned or delayed; provided, however, that the Landlord may withhold any approval for a requested use if the requested use is inconsistent with Landlord and/or the City's policies.

Tenant shall have the right to request Landlord's or Lease Administrator's consent from time to time to use the Premises for a use which is not a Permitted Use (each such use, a "Special

Use"). Tenant shall send a written request to Lease Administrator or Landlord for its approval not less than thirty (30) days prior to the proposed date for such Special Use setting forth in reasonable detail the nature and duration of the proposed use (a "Special Use Request") (such approval by Landlord or Lease Administrator not to be unreasonably withheld, conditioned or delayed), provided however that Landlord and/or Lease Administrator may withhold any approval for a Special Use in the event that the requested use is inconsistent with NYCEDC's and/or the City's policies. Landlord shall reply to the Special Use Request within ten (10) Business Days of its receipt of such request.

Section 9.02 Stevedoring Fees. Tenant shall have the exclusive right to, and shall, manage all facility operations, supervision, administration, and direct all stevedoring services required in connection with the servicing of passenger cruise vessels, yachts, military vessels or any other vessels arriving and berthing at the Premises as set forth in Exhibit D hereto (the "Stevedoring Services"). Tenant shall be entitled to retain the fees it charges for the Stevedoring Services (the "Stevedoring Fees"). Neither Landlord nor Lease Administrator shall receive or retain any portion of this revenue.

(a) To determine the Stevedoring Fees, Tenant shall engage in good faith negotiations with cruise lines operating at Manhattan Cruise Terminals to reduce overall operating costs. Tenant shall use good faith efforts to negotiate with appropriate reductions in manning requirements with labor.

(b) Stevedoring Fees should be disclosed in a vessel call Proforma (defined below) which is utilized by the cruise lines to determine operational budgets.

(c) Tenant must disclose the Stevedoring Fees to Landlord. Landlord and NYCEDC agree that, to the extent permitted by law, including the New York State Freedom of Information Law, Article 6 of the Public Officers law ("FOIL"), it shall use best efforts to ensure that Landlord's rate and other "trade secret" information is kept and maintained as confidential, and shall not be disclosed to any third party (the City and its agencies shall not be deemed to be "third parties" for purposes hereof). Landlord and NYCEDC agree that to the extent that either party receives a FOIL request for any rate or other allegedly proprietary information, it will consult with Tenant prior to making a determination, in either party's sole discretion, as the case may be, as to the applicability of any exemptions under the provisions of FOIL. Tenant acknowledges that it shall not commence any action or proceeding against Landlord and/or NYCEDC and shall have no other rights or remedies available to it under this Agreement arising out of or in connection with either Landlord's or NYCEDC's determination to disclose such requested information.

(d) Once initial Stevedoring Fees are finalized, any changes to the Stevedoring Fees are subject to Landlord's or Lease Administrator's approval, which approval shall not be unreasonably withheld, conditioned or delayed, subject to the following conditions:

(i) Subject to any Tenant collective bargaining agreement, Tenant cannot increase Stevedoring Fees charged to existing cruise lines more than one time in a twelve month period and only upon Landlord's approval.