

**BOGOPA BTM, LLC,**  
a limited liability company organized and existing under the laws of the State of New York,  
having an office at 650 Fountain Avenue, Brooklyn, New York 11208, as Company

and

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY,**  
a corporate governmental agency constituting a body corporate and politic  
and a public benefit corporation of the State of New York,  
duly organized and existing under the laws of the State of New York,  
having its principal office at 110 William Street, New York, New York 10038, as Agency

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**COMPANY LEASE AGREEMENT**

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Dated as of June 1, 2019

New York City Industrial Development Agency  
2019 Bogopa BTM, LLC Project

Affecting the Land generally known by the street address  
610 Exterior Street, Bronx, New York 10451  
Borough of Bronx, Block 2356 Lots 20, 25 and Block 2357 and Lots 32, 35, 40, 42, 45, and 65

in the County of Bronx,  
City and State of New York  
as more particularly described in  
Exhibit A to this Company Lease Agreement  
on the Official Tax Map of Bronx County

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Record and Return to:  
Bryant Rabbino LLP  
650 Fifth Avenue, Suite 3300  
New York, New York 10019  
Attention: B.Seth Bryant, Esq.

## **COMPANY LEASE AGREEMENT**

**THIS COMPANY LEASE AGREEMENT**, made and entered into as of the date set forth on the cover page hereof (this “**Company Lease**”), by and between the entity identified on the cover page hereof as the Company, party of the first part, and the entity indicated on the cover page hereof as the Agency, party of the second part (capitalized terms used in this Company Lease and not defined herein shall have the respective meanings assigned to such terms in the Agency Lease Agreement referred to below):

### **WITNESSETH:**

**WHEREAS**, the Enabling Act authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment, deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

**WHEREAS**, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by the Agency Act for the benefit of the City and the inhabitants thereof; and

**WHEREAS**, to accomplish the purposes of the Act, the Agency has entered into negotiations with the Company for the Project to be located at the Facility Address; and

**WHEREAS**, to facilitate the Project, the Agency and the Company have entered into negotiations to enter into a Straight-Lease Transaction pursuant to which (i) the Company will lease the Facility Realty to the Agency pursuant to this Company Lease, and (ii) the Agency will sublease the Facility Realty, and lease the Facility Personalty, to the Company pursuant to a certain Agency Lease Agreement, dated as of even date herewith, between the Agency and the Company (as the same may be amended or supplemented, the “**Lease Agreement**”); and

**WHEREAS**, in furtherance of the Straight-Lease Transaction, the Agency adopted its Inducement Resolution and its Authorizing Resolution inducing and authorizing the undertaking of the Project and the Project Work, the lease of the Facility Realty by the Company to the Agency, and the sublease of the Facility Realty and the lease of the Facility Personalty by the Agency to the Company; and

**WHEREAS**, the provision by the Agency of Financial Assistance to the Company through a Straight-Lease Transaction has been determined to be necessary to induce the Company to remain and expand its operations within the City and not otherwise relocate the

same outside of the City; and if the Agency does not provide such Financial Assistance, the Company could not feasibly proceed with the Project; and

**WHEREAS**, the cost of the Project is being financed in accordance with the Project Finance Plan;

**NOW, THEREFORE**, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

## ARTICLE I

In this Company Lease, unless the context otherwise requires:

(a) The following terms shall have the respective meanings in this Company Lease:

**Authorizing Resolution** shall mean the resolution of the Agency adopted on November 7, 2018 providing for Financial Assistance and authorizing the Project Documents to which the Agency is a party.

**Bronx Terminal Agreement** shall mean the Bronx Terminal Market Lease Agreement, dated July 16, 2018, between Bogopa Development Partners, LLC, as landlord, and Bogopa BTM, LLC, as tenant.

**Company** shall mean Bogopa BTM, LLC, a limited liability company organized and existing under the laws of the State of New York, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Company under Section 8.9 or 8.20 of the Lease Agreement.

**Entity** shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

**Facility** shall mean, collectively, the Facility Personalty and the Facility Realty.

**Facility Personalty** shall mean the Exempt Personalty, described in Exhibit B – “Description of the Facility Personalty”, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Personalty shall, in accordance with the provisions of Sections 3.6 and 6.4 of the Lease Agreement, include all property substituted for or replacing items of Facility Personalty and exclude all items of Facility Personalty so substituted for or replaced, and further exclude all items of Facility Personalty removed as provided in Section 3.6 of the Lease Agreement.

**Facility Realty** shall mean, collectively, the Land and the Improvements.

**Ground Lease Agreement** shall mean the Ground Lease Agreement, dated as of September 14, 2016, between the City of New York, as landlord, and New York City Economic Development Corporation, as tenant.

**Improvements** shall mean (i) all buildings, structures, foundations, related facilities, fixtures and other improvements existing on the Commencement Date and erected or situated on the Land; (ii) any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Land throughout the term of the Lease Agreement (including any improvements or demolitions made as part of the Project Work pursuant to Section 3.3 of the Lease Agreement); and (iii) all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

**Inducement Resolution** shall mean the resolution of the Agency adopted on November 7, 2018 inducing the Project.

**Land** shall mean that certain lot, piece or parcel of land in the Borough of Bronx, Block 2356 Lots 20, 25 and Block 2357 and Lots 32, 35, 40, 42, 45, and 65, generally known by the street address 610 Exterior Street, Bronx, New York 10451 all as more particularly described in Exhibit A - "Description of the Land", together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 8.10(c) of the Lease Agreement.

**Organizational Documents** shall mean, (i) in the case of an Entity constituting a limited liability company, the articles of organization or certificate of formation, and the operating agreement of such Entity, (ii) in the case of an Entity constituting a corporation, the articles of incorporation or certificate of incorporation, and the by-laws of such Entity, and (iii) in the case of an Entity constituting a general or limited partnership, the partnership agreement of such Entity.

**Person** shall mean an individual or any Entity.

**Project** shall mean, the renovation, furnishing and equipping of an approximately 80,000 square foot retail unit on the fourth floor of an 80,000 square foot supermarket retail space located at 610 Exterior Street, Bronx, New York 10451, all for the use by the Company as a supermarket.

**Project Documents** shall mean this Company Lease, the Lease Agreement, the Sales Tax Letter, the Guaranty Agreement, and the Uniform Project Agreement.

## ARTICLE II

The Company makes the following representations and warranties:

(a) The Company is an Entity of the type, and duly organized under the laws of the state, set forth on the cover page of this Company Lease, is validly existing and in good standing under the laws of its state of organization, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of the Company's Organizational Documents, has the requisite power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Company Lease and each other Project Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Company Lease and each other Project Document to which the Company is or shall be a party and the consummation of the transactions herein and therein contemplated will not (x) violate any provision of law, any order of any court or agency of government, or any of the Company's Organizational Documents, or any indenture, agreement or other instrument to which the Company is a party or by which it or any of its property is bound or to which it or any of its property is subject, (y) be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or (z) result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) The Company has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the Commencement Date in connection with the execution and delivery of this Company Lease and each other Project Document to which it shall be a party or in connection with the performance of its obligations hereunder and under each of the Project Documents.

(d) This Company Lease and the other Project Documents to which the Company is a party (x) have been duly authorized by all necessary action on the part of the Company, (y) have been duly executed and delivered by the Company, and (z) constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms.

(e) Pursuant to this Company Lease, the Company has vested the Agency with a valid leasehold estate in the Facility Realty.

(f) There is no action or proceeding pending or, to the best of the Company's knowledge, after diligent inquiry, threatened by or against the Company by or before any court or administrative agency that would adversely affect the ability of the Company to perform its obligations under this Company Lease or any other Project Document to which it is or shall be a party.

### ARTICLE III

The Company does hereby lease to the Agency, and the Agency hereby leases from the Company, the Land described in Exhibit A, including all improvements thereto (but excluding the Lessee's Property and any Existing Facility Property released pursuant to

Section 3.6 of the Lease Agreement), for the term herein provided and for use as provided in the Lease Agreement. It is the intention of the Company and the Agency that a leasehold estate in all improvements to the Facility Realty hereafter made by the Company shall vest in the Agency as and when the same are effected. Accordingly, the Company and the Agency agree that the Agency shall hold a leasehold estate in all improvements hereafter made by the Company to the Facility Realty (but excluding the Lessee's Property and any Existing Facility Property released pursuant to Section 3.6 of the Lease Agreement).

#### **ARTICLE IV**

The term of this Company Lease shall commence on June 1, 2019 (the "Commencement Date") and expire on the earliest of (ii) such earlier date as may be provided in accordance with the terms of the Lease Agreement or (iii) the termination of the Lease Agreement as provided therein.

#### **ARTICLE V**

The sole rental hereunder shall be the single sum of ten dollars (\$10), receipt of which is hereby acknowledged by the Company.

#### **ARTICLE VI**

The Company hereby delivers possession to the Agency of the Facility Realty.

The use of the Facility, and all other rights, duties, liabilities and obligations of the Company and the Agency with respect thereto, including the Project Work, and the use, operation, leasing and financing of the Facility, not provided for in this Company Lease, shall be as set forth in the Lease Agreement.

#### **ARTICLE VII**

The Company covenants and agrees that, so long as the Lease Agreement shall be in full force and effect, the Agency shall have, hold and enjoy a valid leasehold estate in the Facility Realty during the term hereof (subject to Permitted Encumbrances), and the Company shall from time to time take all necessary action to that end.

Neither the Agency nor the Company shall assign or transfer this Company Lease nor sublease the whole or any part of the Facility Realty, nor subject this Company Lease to any lien, claim, mortgage or encumbrance (other than Permitted Encumbrances) in any manner, nor sell, assign, convey or otherwise dispose of the Facility Realty or any part thereof, during the term of this Company Lease, in any manner, to any Person, except (i) that the Agency will sublease the Facility Realty and lease the Facility Personalty to the Company pursuant to the Lease Agreement, (ii) that the Company may effect an assignment of this Company Lease pursuant to Section 8.9 of the Lease Agreement, (iii) that the Company may grant certain rights-of-way, easements, permits or licenses with respect to the Facility Realty, or effect the release of

certain unimproved portions of the Land, pursuant to Section 8.10 of the Lease Agreement, (iv) that the Company may effect a Transfer or Merger pursuant to Section 8.20 of the Lease Agreement, (v) that the Company may effect the removal of items of fixtures from the Facility Realty pursuant to Section 3.6 of the Lease Agreement, and (vii) that the Company and the Agency will grant mortgage liens on and security interests in their respective interests in the Facility Realty pursuant to each mortgage.

#### **ARTICLE VIII**

Except for the Lease Agreement, this Company Lease contains the entire agreement between the parties hereto with respect to the subject matter hereof, and all prior negotiations and agreements are merged in this Company Lease. This Company Lease shall only be changed, modified or discharged in whole or in part by a written instrument executed by the Company and the Agency. No consent or approval of the Company shall be deemed to have been given or to be effective for any purposes unless such consent or approval is set forth in a written instrument executed by the Company. No consent or approval of the Agency shall be deemed to have been given or to be effective for any purposes unless such consent or approval is set forth in a written instrument executed by the Agency.

#### **ARTICLE IX**

All notices, certificates or other communications hereunder shall be sufficient if sent (i) by registered or certified United States mail, return receipt requested and postage prepaid, (ii) by a nationally recognized overnight delivery service for overnight delivery, charges prepaid or (iii) by hand delivery, addressed, as provided in Section 11.5 of the Lease Agreement.

#### **ARTICLE X**

This Company Lease shall be governed by, and construed and enforced in accordance with, the laws of the State, without regard or giving effect to the principles of conflicts of laws thereof.

The terms of this Company Lease are and shall be binding upon and inure to the benefit of the Agency and the Company and their respective successors and assigns.

If any one or more of the provisions of this Company Lease shall be ruled illegal or invalid by any court of competent jurisdiction, the illegality or invalidity of such provision(s) shall not affect any of the remaining provisions hereof, but this Company Lease shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

This Company Lease shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency and the Company relating to the Facility, other than the Lease Agreement or any other Project Document.

## **ARTICLE XI**

This Company Lease shall become effective upon its delivery on the Commencement Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

## **ARTICLE XII**

All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Company Lease on behalf of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation the Agency may incur for the payment of money shall not subject the Agency to any pecuniary or other liability or create a debt of the State or the City, and neither the State nor the City shall be liable on any obligation so incurred and any such obligation shall be payable solely out of amounts payable to the Agency by the Company under the Lease Agreement.

All covenants, stipulations, promises, agreements and obligations of the Company contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Company, and not of any director, officer, manager, partner, employee or agent of the Company in his individual capacity, and no recourse shall be had for the payment of any amounts hereunder against any director, officer, manager, partner, employee or agent of the Company.

## **ARTICLE XIII**

This Company Lease is and shall be subject and subordinate in all respects to any mortgage and to such mortgage liens and security interests so created thereby; provided, however, that nothing in any mortgage shall impair the Agency's ability to enforce its rights hereunder against the Company.

## **ARTICLE XIV**

The Agency and the Company agree that this Company Lease shall be recorded, or caused to be recorded, by the Agency (at the sole cost and expense of the Company) in the appropriate Office of the Register of The City of New York.

## **ARTICLE XV**

The parties agree that this Company Lease is subordinate to the Ground Lease and the Bronx Terminal Agreement. The parties agree to comply with Section 11.6 of the Bronx Terminal Agreement (except with respect to the Agency in connection with clauses (c) and (e) of such



Section) and each certifies as Tenant as reflected in Section 29.1 of the Bronx Terminal Agreement, attached hereto as Exhibit B, and Section 10.5 (except with respect to the Agency in connection with clauses (c), (d) and (e) of Section 10.5) of the Ground Lease Agreement, attached hereto as Exhibit C.

**IN WITNESS WHEREOF**, the Company has caused its name to be subscribed hereto by its Authorized Representative, and the Agency has caused its corporate name to be hereunto subscribed by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel, all being done as of the year and day first above written.

**BOGOPA BTM, LLC**

By: 

Name: Spencer An

Title: President

**NEW YORK CITY INDUSTRIAL  
DEVELOPMENT AGENCY**

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

Name: Krishna Omolade

Title: Deputy Executive Director

**IN WITNESS WHEREOF**, the Company has caused its name to be subscribed hereto by its Authorized Representative, and the Agency has caused its corporate name to be hereunto subscribed by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel, all being done as of the year and day first above written.

**BOGOPA BTM, LLC**

By: \_\_\_\_\_  
Name: Spencer An  
Title: President

**NEW YORK CITY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: Krishna Omolade  
Name: Krishna Omolade  
Title: Deputy Executive Director

STATE OF NEW YORK )  
 )  
 ) ss.:  
COUNTY OF ~~NEW YORK~~ )  
 Nassau

On the 3<sup>rd</sup> day of June, in the year two thousand nineteen, before me, the undersigned, personally appeared Spencer An, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public/Commissioner of Deeds

**Allen Peristein**  
Notary Public, State of New York  
No. 02PE5026937  
Qualified in Nassau County  
My Commission Expires May 2, 2022

STATE OF NEW YORK

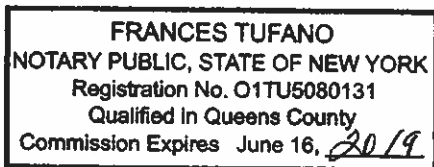
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: ss.:

COUNTY OF NEW YORK

)

On the 6 day of June, in the year two thousand nineteen, before me, the undersigned, personally appeared Krishna Omolade personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



*Frances Tufano*  
\_\_\_\_\_  
Notary Public

## Exhibit A

### DESCRIPTION OF THE LAND

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Bronx, City and State of New York, being described as follows:

BEGINNING at a point formed by the intersection of the Northerly sideline of East 149th Street with the Westerly sideline of River Avenue (75 feet wide) and from said point of beginning running thence;

1. Along said Northerly sideline of East 149th Street, North 89 degrees 49 minutes 56 seconds West, a distance of 30.00 feet to a point formed by the intersection of the aforementioned Northerly sideline of East 149th Street with the Easterly sideline of Gateway Center Boulevard (fka Exterior Street, 100 feet wide), thence;
2. Along said Easterly sideline of Gateway Center Boulevard, North 42 degrees 10 minutes 54 seconds West, a distance of 285.61 feet to a point formed by the intersection of said Easterly sideline of Gateway Center Boulevard with the Southerly sideline of East 150th Street, thence;
3. Along a line running through the bed of former East 150th Street North 42 degrees 29 minutes 19 seconds West, a distance of 59.77 feet to a point formed by the intersection of the Easterly sideline of former Cromwell Avenue (60 feet wide) with the Northerly sideline of former East 150th Street, thence;
4. Along a line running through the bed of former Cromwell Avenue, North 49 degrees 24 minutes 42 seconds West, a distance of 100.15 feet to a point formed by the intersection of the Easterly sideline of Gateway Center Boulevard (80 feet wide) with the Westerly sideline of former Cromwell Avenue, thence; the following five (5) courses along the aforementioned Easterly sideline of Gateway Center Boulevard;
5. North 32 degrees 31 minutes 30 seconds West, a distance of 1,041.09 feet to a point, thence;
6. North 32 degrees 48 minutes 20 seconds West, a distance of 497.52 feet to a point, thence;
7. South 57 degrees 17 minutes 56 seconds West, a distance of 14.82 feet to a point, thence;
8. North 32 degrees 48 minutes 44 seconds West, a distance of 162.66 feet to a point of curvature, thence;
9. Along a curve to the right, having a distance of 189.11 feet, an arc length of 87.42 feet, a central angle of 26 degrees 29 minutes 10 seconds, bearing a chord of North 19 degrees 34 minutes 09 seconds West, a chord distance of 86.64 feet to point, thence;

10. Along a line running through the interior of Block 2357 Lot 32, Block 2359, Lot 50 and Block 2357, Lot 65, North 57 degrees 17 minutes 56 seconds East, a distance of 188.00 feet to a point on the dividing line between Block 2357, Lot 65 and Block 2359, Lot 71 (Lands now or formerly of Metro-North/MTA, f/k/a New York Central Railroad), thence;

1. Along said dividing line between Block 2357, Lot 65, Block 2359, Lot 50 and Block 2357, Lot 45 on the Southwest and Block 2359, Lot 71 (Lands now or formerly of Metro-North/MTA, f/k/a New York Central Railroad), on the Northeast, South 58 degrees 32 minutes 38 seconds East, a distance of 488.34 feet to a point, thence;

2. Continuing along the dividing line between Block 2557, Lots 45 and 42 and the Northerly terminus of former Cromwell Avenue on the Southwest and Block 2357, Lot 92 (Lands now or formerly of Metro-North/MTA, f/k/a New York Central Railroad) on the Northeast South 58 degrees 17 minutes 19 seconds East, a distance of 476.92 feet to a point on the Westerly sideline of River Avenue (75 feet wide), thence; along said Westerly sideline of River Avenue, the following two (2) courses:

3. South 04 degrees 56 minutes 47 seconds East, a distance of 12.23 feet to a point, thence;

4. Continuing along said Westerly sideline of River Avenue and through the beds of former East 151st Street and former East 150th Street, South 12 degrees 36 minutes 25 seconds East, a distance of 1,446.00 feet to the point and place of BEGINNING.

EXCEPTING THEREFROM the following described parcel known as part of Ramps "A" & "D", Part of Lot 50, Block 2539 (A.K.A part of lands transferred to The New York State Department of Transportation per Map No. 3, Parcel 4) and being described as follows:

BEGINNING at a point common to Block 2357 Lot 45, Block 2539, Lot 50 (Lands now or formerly of New York State Department of Transportation) and Block 2539, Lot 71 (Land now or formerly of Metro-North/MTA, F.K.A. New York Central Railroad), said point being distant the following four (4) courses from a point formed by the intersection of the Westerly sideline of River Avenue (75 feet wide) with the Northerly sideline of East 149th Street (60 feet wide):

a) North 12 degrees 36 minutes 25 seconds West, a distance of 1446.00 feet to a point, thence;

b) North 04 degrees 56 minutes 47 seconds West, a distance of 12.23 feet to a point, thence;

c) North 58 degrees 17 minutes 19 seconds West, a distance of 476.92 feet to a point, thence;

d) North 58 degrees 32 minutes 38 seconds West, a distance of 64.84 feet to the point and place of beginning and from said beginning point running, thence; the following ten (10) courses along the dividing line between Block 2539, Lot 45, Block 2357 Lot 32 and Block 2539, Lot 50;

10. South 57 degrees 35 minutes 49 seconds West, a distance of 14.46 feet to a point of Non-tangent curvature, thence;

11. Along a curve to the left, having a radius of 873.54 feet, a central angle of 13 degrees 42 minutes 25 seconds, an arc length of 208.98 feet, bearing a chord of South 64 degrees 16 minutes 30 seconds West, a chord distance of 208.48 feet to a point of tangency, thence;
12. South 57 degrees 25 minutes 17 seconds West, a distance of 92.00 feet to a point, thence;
13. South 38 degrees 29 minutes 56 seconds West, a distance of 23.26 feet to a point, thence;
14. South 57 degrees 25 minutes 17 seconds West, a distance of 18.00 feet to a point of Non-tangent curvature, thence;
15. Along a curve to the left, having a radius of 1,768.54 feet, a central angle of 02 degrees 59 minutes 22 seconds, an arc length of 92.27 feet, bearing a chord of South 29 degrees 19 minutes 51 seconds East, a chord distance of 92.26 feet to a point of Non-Tangency, thence;
16. North 32 degrees 49 minutes 25 seconds West, a distance of 331.00 feet to a point, thence;
17. North 57 degrees 10 minutes 36 seconds East, a distance of 5.71 feet to a point on Non-Tangent curvature, thence;
18. Along a curve to the right, having a radius of 906.46 feet, a central angle of 04 degrees 41 minutes 21 seconds, an arc length of 74.19 feet, bearing a chord of North 16 degrees 19 minutes 37 seconds West, a chord distance of 74.16 feet to a point, thence;
19. North 13 degrees 58 minutes 56 seconds West, a distance of 55.91 feet to a point, thence;
20. Along a line running through Lot 50, Block 2539, North 57 degrees, 17 minutes 56 seconds East, a distance of 40.04 feet to a point, thence; The following five (5) courses along the dividing line between Block 2357 Lot 65 and Block 2539, Lot 50:
21. South 13 degrees 58 minutes 56 seconds East, a distance of 68.76 feet to a point of curvature, thence;
22. Along a curve to the left, having a radius of 868.54 feet, a central angle of 05 degrees 21 minutes 23 seconds, an arc length of 81.20 feet, bearing a chord of South 16 degrees 39 minutes 30 seconds East, a chord distance of 81.17 feet to a point of Non-Tangency, thence;
14. South 32 degrees 34 minutes 43 seconds East, a distance of 159.50 feet to a point, thence;
5. North 57 degrees 25 minutes 17 seconds East, a distance of 98.50 feet to a point of curvature, thence;
6. Along a curve to the right, having a radius of 926.46 feet, a central angle of 12 degrees 03 minutes 18 seconds, an arc length of 194.93 feet, bearing a chord of North 63 degrees 26 minutes



56 seconds East, a chord distance of 194.57 feet to a point common to Block 2539, Lot 50 and Block 2539, Lot 71, thence;

7. Along the dividing line between Block 2539, Lot 50 and Block 2539, Lot 71 South 58 degrees 32 minutes 38 seconds East, a distance of 63.86 feet to the point or place of BEGINNING.

TOGETHER with the benefits of that certain easement for ingress, egress and regress as contained in Map No. 3, Parcel No. 4 and 5 and referenced in that certain notice of appropriation filed by the New York State Department of Transportation, recorded in Reel 253, page 1919.

TOGETHER WITH THE BENEFITS OF THAT CERTAIN EASEMENT CONTAINED IN that certain Operation and Easement Declaration for Gateway Center at Bronx Terminal Market made by BTM Development Partners, LLC dated as of September 4, 2006 and recorded September 21, 2006 as CRFN2006000533555, as amended pursuant to that certain First Amendment to Declaration made by BTM Development Partners, LLC dated April 4, 2013 and recorded April 18, 2013 as CRFN2013000153923.

Section 11.6 of the Bronx Terminal Agreement

Section 11.6. Provisions of Subleases. Tenant covenants and agrees that each sublease, assignment, occupancy, license and concession agreement for the Premises executed by Tenant hereunder or by any sublessee, occupant, licensee or concessionaire of all or any portion of the Premises (including any assignment of any such agreement) shall provide that (a) it is subject and subordinate to this Lease and to all matters to which this Lease is subject and subordinate, (b) the subtenant, assignee, sub-subtenant, occupant, licensee or concessionaire (collectively "Subtenant") will not pay rent or other sums under its subleases or agreement with Tenant for more than one (1) month in advance, (c) at Landlord's option, on the termination of this Lease pursuant to Article 22, the Subtenant will attorn to Landlord, or enter into a direct lease, assignment, occupancy, license, or concession agreement on identical terms with Landlord and Landlord shall not be liable for any previous act of the sublandlord under the subleases or other agreements unless such acts continue in which case Landlord shall be liable for the acts of Landlord occurring after the date Landlord enters into the direct lease, occupancy, license or concession agreement, (d) the Subtenant shall make the certification contained in Section 29.1 of this Lease, and (e) the sublease or other agreement shall give actual notice to the Subtenant of the matters referred to in clause (10) of Exhibit C to the Declaration. Tenant shall deliver to Landlord duplicate originals of every assignment, sublease, occupancy agreement, license and concession agreement for any part of the Premises. Neither Landlord nor any Ground Lessor, Master Lessor or Landlord's Mortgagee shall be obligated to furnish Subtenant with any non-disturbance agreements.

Section 29.1. Tenant Certification and Indemnification. Tenant certifies that (i) it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (ii) it is not engaged in this transaction, directly or indirectly, for or on behalf of, or instigating or facilitating this transaction, directly or indirectly, for or on behalf of, any such person, group, entity, or nation. Tenant hereby indemnifies and holds Landlord harmless from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorneys' fees and expenses) arising from or related to any breach by Tenant of the foregoing certification.

Section 10.5 of the Bronx Terminal Agreement

Section 10.5. Required Sublease Clauses. Each Sublease shall provide that:

- (a) It is subordinate and subject to this Lease.
- (b) Except for security deposits and any other amounts deposited with Tenant or with any Recognized Mortgagee in connection with the payment of insurance premiums, real property taxes and assessments and other similar charges or expenses, Subtenant shall not pay rent or other sums payable under the Sublease to Tenant for more than one (1) month in advance other than a Buy Down Amount.
- (c) At Landlord's option, on the termination of this Lease pursuant to Article 24 hereof, the Subtenant shall attorn to, or shall enter into a direct lease on terms identical to its Sublease with, Landlord for the balance of the unexpired term of the Sublease.
- (d) If applicable, the terms described in Section 7.1(c)(ii) of this Lease.
- (e) To the extent that any Subtenant is required under its Sublease to defend, indemnify and/or hold harmless Tenant, as landlord, said Sublease shall also state that to the same extent Subtenant shall defend, indemnify and hold harmless Landlord and Landlord's agent (which for this purpose shall mean EDC and AIDC unless Tenant notified to the contrary by Landlord).

Section 7.1 (c)(ii). Required Sublease Clauses. To the extent that any Subleases entered into by Tenant, as landlord, require the Subtenant to carry liability insurance, such Sublease terms shall require the Subtenant to name Tenant, Landlord and Landlord's agent, if any, as additional insureds. To effectuate this provision, Tenant shall deliver to Landlord upon demand, true copies of executed Subleases and any evidence of insurance supplied by the respective Subtenants as may be required of Subtenant under the terms of its Sublease