LICENSE AGREEMENT

**LICENSE AGREEMENT** (hereinafter referred to as “**License**”) made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, between [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], whose address is [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] (hereinafter referred to as “**Licensor**”), and THE CITY OF NEW YORK (the “City”), a municipal corporation, acting through the Department of Citywide Administrative Services, with an address at 1 Centre Street, 20th Floor North, Suite 2000, New York, New York 10007 (hereinafter referred to as “**Licensee**”).

**RECITALS**

1. Licensor is the owner of certain land and improvements thereon (the “**Property**”) located at Block [\_\_\_], Lot [\_\_\_] in the Tax Map of [\_\_\_\_\_\_], and State of New York, known by the address of [\_\_\_\_\_\_\_\_\_\_\_\_\_\_] (the “**Licensed Premises**”).
2. As part of its Humanitarian Emergency Response and Relief Center(s) (the “**Program**”), which, for the purposes of this License, includes the following uses: [TBD BETWEEN THE PARTIES POST-RFP SUBMISSION].
3. In furtherance thereof, the parties hereto desire to enter into this License for the use of the Licensed Premises (as hereinafter defined) pursuant to the terms and conditions set forth herein.

**TERMS AND CONDITIONS**

**ARTICLE 1
LICENSE; TERM; TERMINATION**

Section 1. License; Use

(a) Licensor hereby licenses to Licensee and Licensee hereby licenses from Licensor, consistent with the following terms and conditions, the Licensed Premises consisting of approximately [\_\_\_\_\_\_\_\_\_\_\_] rentable square feet of space (based on [\_\_\_\_\_\_\_\_] usable square feet of space) on the [\_\_\_\_\_\_] floor(s) of the building located on the Property (the “**Building**”). The floor plans of the Licensed Premises shall be made a part of the License and are attached hereto as **Exhibit “A”**.

(b) Licensor hereby represents that the Licensed Premises consists of the square footages set forth above, said square footages are accurate and the City is relying upon the foregoing representations in entering into the Licensed Premises.

(c) The Licensed Premises are to be used for purposes of the Program or for such other similar purposes as the Licensee may determine in its sole discretion, upon the terms and conditions hereinafter set forth. Licensor acknowledges that the City may enter into contracts with service providers and/or a memorandum of understanding with the New York City Health and Hospitals Corporation to operate the Program on behalf of the City, as the Licensee’s invitees in the Licensed Premises.

Section 2. Term.

 (a) The effective date of this License (“**Effective Date**”) shall be the date when this License shall have been executed and delivered by Licensor and Licensee. The initial term of this License Agreement in which Licensee shall be permitted to occupy the Licensed Premises (the “**Initial Term**”) shall commence on the [Effective Date (if no initial alterations being performed)] [Substantial Completion Date (if alterations are being performed)](the “**Commencement Date**”) and expire on the one year anniversary of the Commencement Date (the “**Initial Term** **Expiration Date**”), subject to termination on any earlier date in accordance with the terms of this License. Thereafter, provided that neither Licensor nor Licensee have previously elected to terminate this License in accordance with the terms of this License, this License shall be subject to two (2) automatic renewals for a duration of one year each (the term of each renewal being a “**Renewal Term**”, the date each Renewal Term commences being the “**Renewal Term Commencement Date**”, and the date each Renewal Term expires being the “**Renewal Term Expiration Date**”). The date this License terminates whether upon the second Renewal Term Expiration Date or an earlier termination in accordance with the terms of this License is hereinafter referred to as the “**Final** **Expiration Date**”).

(b) Licensor may terminate this License on 28 days’ written notice to Licensee at any time and for any reason. In addition to any other right of Licensor to terminate this License, this License is subject to termination in accordance with and as set forth in Article 22 hereof. Licensor agrees that it shall not resort to self-help to remove Licensee and/or Licensee's property from the Licensed Premises after this License has terminated or expired and Licensor agrees that it shall comply with all Federal, State and Local laws rules, and/or executive orders relating to Landlord Tenant relationships.

(c) If Licensor terminates this License other than for Licensee’s Cause (as defined in Article 22), then Licensor shall pay Licensee a fee in an amount of $[\_\_\_\_\_\_]. The payment required under this Section 2(c) shall be made by Licensor to Licensee within thirty (30) days after the effective date of termination. This Section 2(c) shall survive the expiration or sooner termination of this License.

(d) Licensee may terminate this License on 28 days’ written notice to Licensor at any time and for any reason. If Licensee terminates this License such that the Final Expiration Date occurs prior to the Initial Term Expiration Date and such termination is not a Services Failure Termination (defined in Article 7), Repairs Failure Termination (defined in Article 8), or, if applicable, pursuant to an Initial Alterations Termination Right (defined in Article 9), then Licensee shall pay Licensor a fee that is equal to the amount of the Fee (defined in Article 2) that would have been payable if this License was not terminated prior the Initial Term Commencement Date for the period beginning on the day immediately following the Final Expiration Date and ending on the Initial Term Expiration Date (the “**Early Termination Fee**”). Payment of the Early Termination Fee shall be made by Licensee to Licensor within thirty (30) days after the effective date of termination. This Section 2(d) shall survive the expiration or sooner termination of this License.

**ARTICLE 2
LICENSE FEE**

Section 1. Fee Amount

The Licensee shall pay a license fee commencing on the Commencement Date at the rate of $[\_\_\_\_\_\_\_\_\_\_] per month (the “**Fee**”), which Fee includes compensation for all of Licensor’s obligations under this License, including all services and maintenance obligations set forth in this License including Articles 7, 8, and 9, as well as all utilities.

Section 2. Method of Payment

(a) The Fee shall be payable at the end of each calendar month. Licensee shall pay only a pro rata share of the Fee for any month where Licensee remains in possession of the Licensed Premises for less than 30 days. Such pro rata Fee shall be calculated on the basis of a 30-day month.

(b) The Fee shall be payable at Licensor's address hereinbefore set forth or at such other address as may be designated by Licensor from time to time, by notice in the manner provided herein. All bills sent by Licensor to Licensee shall have clearly reflected thereon the property, address, and block and lot for which the bill is being sent. All bills must be legible and must contain the address to which the payment should be sent. The name, address, and telephone number of the Licensor’s contact person for billing inquiries must be provided to Licensee in the manner designated in Article 13 hereof.

**ARTICLE 3****LICENSOR'S INTEREST IN PREMISES**

Licensor warrants and represents that it is the owner in fee of the Licensed Premises and is empowered and authorized to license said Licensed Premises

**ARTICLE 4****CERTIFICATE OF OCCUPANCY; COMPLIANCE WITH LAWS**

Section 1. Certificate of Occupancy

 Licensor has delivered to Licensee a certificate of occupancy or approved temporary use permit authorizing the use of the Licensed Premises for the purposes set forth in this License including the Program. Throughout the term of this License, Licensor shall keep in full force and effect any temporary or permanent certificates or permits that may exist affecting the Licensed Premises and Licensee’s and its invitee’s authorized use of the Licensed Premises.

Section 2. Compliance with Laws

 Licensor shall comply with all requirements, rules, laws, regulations and orders of Federal, State and local authorities and of any board of fire underwriters having jurisdiction over the use contemplated herein, Licensed Premises, the Building and/or the Property of which they form a part, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq. (“**ADA**”) during the term hereof or renewal term, if any, in order for Licensee to occupy the Licensed Premises in accordance with the Program. With respect to the ADA and regulations promulgated pursuant thereto, Licensor shall comply with and perform both the Licensor’s obligations, if any, as a public accommodation pursuant to Title III of the ADA and Licensee’s obligation as a public entity pursuant to Title II of the ADA for the Licensed Premises. Licensor shall remove all violations placed against the Licensed Premises, the Building, or the Property of which they form a part that (1) interfere with Licensee’s use or occupancy of the Licensed Premises for the purposes permitted by this License, (2) obstruct access to the Licensed Premises, (3) make it unsafe for Licensee to use the Licensed Premises, or (4) impose any liability on Licensee, except those violations caused by Licensee.

Section 3. Certain Remedies

In the event Licensor fails to comply with any of the provisions of this Article within three days after written notice from Licensee, Licensee, in addition to any other remedy it may have, may (i) as agent for Licensor, perform same and deduct the cost thereof from any Fees due or that may become due and payable under this License or (ii) may terminate this License on ten days’ written notice to Licensor or (iii) may withhold all Fees due and owing to Licensor until Licensor complies to Licensee's satisfaction. Notwithstanding the foregoing, if Licensee reasonably determines that such compliance is incapable of being performed within three days and, within the three day period set forth in Licensee’s notice, Licensor notifies Licensee of its intent to comply, commences compliance and thereafter diligently prosecutes compliance, then Licensee shall have the option, to be exercised in its reasonable discretion, to refrain from asserting the remedies set forth herein for a period of 30 days from the date Licensor notifies Licensee of said intent.

**ARTICLE 5
REAL ESTATE TAXES, ASSESSMENTS, WATER RATES,**

**SEWER RENTS, ARREARS**

Section 1. Licensor Payment

 Licensor shall pay all real estate taxes, assessments, water rates, sewer rents and arrears levied against the Building and the real property of which it is a part for the tax lot where the Licensed Premises is located. Licensor shall provide Licensee with receipted bills, payment receipts or other back‑up information satisfactory to Licensee evidencing Licensor's payment thereof within five business days after Licensee shall give notice to Licensor requesting such evidence of payment. Should Licensor fail to pay said taxes, assessments, water rates and sewer rents, then Licensee, in addition to any and all other remedies it may have, may apply any Fee due or that may become due and payable under this License to the payment of said taxes, assessments, water rates and sewer rents.

Section 2. Arrears

 If Licensor is in any other arrears on the Property or any portion thereof for any payments or obligations payable to The City of New York, including rents or mortgage payments, then Licensee may apply any Fees due or that may become due and payable under this License to the payment of such arrears and as long as such arrears are unpaid, no action or proceeding may be maintained by Licensor against Licensee for nonpayment of Fees.

**ARTICLE 6
ELECTRICITY**

Licensor will furnish an electrical system in the Licensed Premises sufficient to support the activities contemplated by this License and in no event less than five (5) watts per rentable square foot (exclusive of heating, ventilation, and cooling load). The Licensed Premises shall be sufficient to support internet and WiFi access during the term of this License.

**ARTICLE 7
SERVICES**

Section 1. Services, Heating and Cooling

[TBD BETWEEN THE PARTIES POST-RFP SUBMISSION] [(a) Licensor shall provide hot and cold water[INSERT CAPACITY OF WATER SYSTEM], adequate elevator and/or dumbwaiter service (if applicable), maintain the public entrances, passageways, doors, doorways, corridors, elevators, stairs, toilets (including supply and cleaning thereof) or other public parts of the Building, if any, (collectively "**common areas**"), perform regular monthly extermination services to the Licensed Premises and the common areas, provide and maintain the heating, ventilation and air conditioning equipment in good working order so as to provide: (i) air conditioning during the summer months at an average inside design temperature of 75º Fahrenheit plus or minus 2º Fahrenheit dry bulb and a room relative humidity of 50% when the outside temperature is 95º Fahrenheit dry bulb coincident with a wet bulb temperature of 75º Fahrenheit; and (ii) heating during the winter months at an average inside design temperature of 72º Fahrenheit dry bulb when the outside temperature is 0º degrees Fahrenheit dry bulb with a wind velocity of 15 miles per hour.]

(b) Licensor shall be responsible for (i) providing all required repair and maintenance to the HVAC system and equipment and (ii) duct cleaning, except for kitchen and toilet exhaust.

(c) Licensor shall be responsible for routine inspection and maintenance of fire extinguishers, limited to mechanical rooms.

(d) [NOTE TO RFP RESPONDENT – SPECIFY WHICH ADDITIONAL SERVICES YOU WILL BE PROVIDING.] Licensor shall provide all of the additional services set forth in Addendum 1, annexed hereto and made a part hereof.

Section 2. Hours

 The foregoing Licensor's services shall be provided 24 hours per day, 7 days per week, 365 days per year.

Section 3. Certain Remedies

 In the event Licensor fails to comply with any of the provisions of this Article within three days after written notice by Licensee, Licensee, in addition to any other remedy it may have, may (i) as agent for Licensor, perform same and deduct the cost thereof from any Fees due or that may become due and payable under this License or (ii) may terminate this License on ten days’ written notice to Licensor (such termination being a “**Services Failure Termination**”) or (iii) may withhold all Fees due and owing to Licensor until Licensor complies to the satisfaction of Licensee. Notwithstanding the foregoing, if Licensee reasonably determines that such compliance is incapable of being performed within three days and, within the three day period set forth in Licensee’s notice, Licensor notifies Licensee of its intent to comply, commences compliance and thereafter diligently prosecutes compliance, then Licensee shall have the option, to be exercised in its reasonable discretion, to refrain from asserting the remedies set forth herein for a period of 30 days from the date Licensor notifies Licensee of said intent.

Section 4. Hazardous Conditions; Emergencies

(a) Anything to the contrary notwithstanding, in the event the repairs to be performed by the Licensor are required to correct a hazardous condition or to end an emergency which renders the Licensed Premises unsuitable for the use set forth herein, Licensee shall give Licensor, its agent, superintendent or the person designated to receive such notice, immediate notice in writing, personally or by nationally recognized overnight mail service, and Licensor, within 24 hours of giving said notice, shall commence the repairs and diligently proceed with continuity to complete said work.

(b) In the event Licensor fails to commence and/or fails to diligently proceed with continuity to complete said work after said notice, as aforesaid, Licensee in addition to any other remedy it may have, may (i) as agent for Licensor, perform same and deduct the cost thereof from any Fees due or that may become due and payable under this License or (ii) may terminate this License on ten days’ written notice to Licensor (such termination also being a Services Failure Termination) or (iii) may withhold all Fees due and owing to Licensor until Licensor performs such repairs to the satisfaction of Licensee. Notwithstanding the foregoing, if Licensee reasonably determines that such work is incapable of being performed within three days and, within the three day period set forth in Licensee’s notice, Licensor notifies Licensee of its intent to perform the required work, commences to perform said work and thereafter diligently prosecutes said work to completion, then Licensee shall have the option, to be exercised in its reasonable discretion, to refrain from asserting the remedies set forth herein for a period of 30 days from the date Licensor notifies Licensee of said intent.

.

**ARTICLE 8
REPAIRS**

Section 1. Repair and Maintenance

 Licensor shall make all interior, exterior and structural repairs, excluding such repairs necessitated by the negligence of Licensee or its invitees, but including maintenance, repair or replacement of the roof, windows and window glass, replacement of light bulbs and fluorescent lamps, plumbing, and electrical, heating and air conditioning systems, common areas, and all repairs needed because of Licensor's negligence or because of defective materials or workmanship in the construction and/or improvement of the Licensed Premises or of the Building of which they are a part. Licensor shall repair and maintain any sidewalks, curbs and passageways adjoining and/or appurtenant to the Licensed Premises in good, clean and orderly condition, free of dirt, rubbish, snow, ice and unlawful obstruction.

Section 2. Certain Remedies

 In the event Licensor fails to fulfill its obligations under this Article, Licensee may, in addition to its other remedies, give written notice to Licensor specifying the repairs required by Licensee and Licensor shall commence performance of such work within three days after the giving of such notice and diligently proceed to complete said work. In the event Licensor fails to commence and/or fails to diligently proceed with continuity to complete said work after said written notice, Licensee, in addition to any other remedy it may have, may (i) as agent for Licensor, perform same and deduct the cost thereof from any Fees due or that may become due and payable under this License or (ii) may terminate this License on ten days’ written notice to Licensor (such termination being a “**Repairs Failure Termination**”) or (iii) may withhold all Fees due and owing to Licensor until Licensor performs such work to the satisfaction of Licensee. Notwithstanding the foregoing, if Licensee reasonably determines that such work is incapable of being performed within three days and, within the three day period set forth in Licensee’s notice, Licensor notifies Licensee of its intent to perform the required work, commences the performance of said work and thereafter diligently prosecutes said work to completion, then Licensee shall have the option, to be exercised in its reasonable discretion, to refrain from asserting the remedies set forth herein for a period of 30 days from the date Licensor notifies Licensee of said intent.

Section 3. Hazardous Conditions; Emergencies

 Anything to the contrary notwithstanding, in the event the repairs to be performed by the Licensor are required to correct a hazardous condition or to end an emergency which renders the Licensed Premises unsuitable for the use set forth herein, Licensee shall give Licensor, its agent, superintendent or the person designated to receive such notice, immediate notice in writing, personally or by nationally recognized overnight mail service, and Licensor, within 24 hours of giving said notice, shall commence the repairs and diligently proceed with continuity to complete said work. In the event Licensor fails to commence and/or fails to diligently proceed with continuity to complete said work after said notice, as aforesaid, Licensee (i) may, as agent for the Licensor, perform same and deduct the cost thereof from any Fees due or that may become due and payable under this License or (ii) may terminate this License on 10 days’ written notice to Licensor (such termination also being a Repairs Failure Termination), or (iii) may withhold all Fees due and owing to Licensor until Licensor performs such repairs to the satisfaction of Licensee.

**ARTICLE 9
ALTERATIONS**

Section 1. Alterations by Licensee

 Licensee may make non-structural alterations, decorations, installations, additions and improvements in and to the Licensed Premises and may erect signs therein or thereon. Licensee shall not make any structural alterations without the prior written consent of Licensor, which consent shall not be unreasonably withheld. All property of whatever kind or nature in or on the Licensed Premises owned, installed or paid for by Licensee shall be and remain the property of Licensee and upon the termination of this License, Licensee shall have the option of removing such property or of surrendering such property (including partition systems and furniture located in the Licensed Premises) to Licensor, in either event without any liability to Licensor. Licensee shall exercise its option by giving written notice to Licensor no later than 10 days after the termination of this License. If Licensee shall fail to give such notice or shall fail to remove such property upon termination of this License, the property shall be deemed to be surrendered without any payment for removal owed to Licensor. The provisions of this Article shall survive the termination of this License.

Section 2. Alterations by Licensor

 [NOTE TO RFP RESPONDENT – PROVIDE THE DETAILS IN ADDENDUM 2 OF ANY WORK YOU MUST PERFORM TO SATISFY THE “PREMISES REQUIREMENTS”, “PREMISES CHARACTERISTICS”, “SPACE NEEDS”, OR ANY OTHER REQUIREMENT OF THE RFP BEFORE LICENSEE CAN OCCUPPY THE LICENSED PREMISES.] In the event Licensor is required to make alterations to the space to ready it for Licensee’s occupancy and accommodate Licensee’s use of the space in furtherance of the Program, all such alterations shall be specified in and performed in accordance with the terms contained in Addendum 2 (the “**Initial Alterations**”), annexed hereto and made a part hereof. If Licensor must submit architectural and/or engineering plans (the “**Plans**”) to be legally permitted to proceed with the Initial Alterations, such Plans shall first be reviewed and approved by Licensee before being submitted to obtain permits, such approval to be reasonably provided by Licensee. Further, if Initial Alterations are specified in the Addendum 2 to this License, Licensor shall substantially complete the alterations specified in Addendum 2 as reasonably determined by Licensee within [\_\_\_\_\_\_\_\_\_\_] months of the Effective Date (the “**Substantial Completion Date**”). In the event Licensor fails to achieve substantial completion by the Substantial Completion Date, Licensee shall be entitled to a credit against the Fee otherwise due and payable equivalent to one (1) day worth of the Fee for the total number of days contained within the period commencing on the day immediately following the Substantial Completion Date and ending on the day that substantial completion is achieved, both dates inclusive. In addition, in the event Licensor fails to achieve substantial completion by the Substantial Completion Date, Licensee may, upon five days prior written notice to Licensor, as agent for Licensor, perform the outstanding Initial Alterations and deduct the cost thereof from any Fee due or that may become due and payable under this License. [Finally, in the event Licensor fails to achieve substantial completion by the Substantial Completion Date, Licensee may terminate this License on thirty (30) days prior written notice to Licensor (the “**Initial Alterations Termination Right**”), provided that in the even Licensor achieves substantial completion prior to the expiration of the thirty-day notice period, such notice to terminate shall be void and this License will remain in full force and effect.]

**ARTICLE 10
CONDEMNATION**

If any portion of the Licensed Premises (which is not de minimis and which affects the proper operation and functioning of Licensee and its invitees in the Licensed Premises) shall be taken in condemnation, this License Agreement shall terminate upon the vesting of title in the condemnor and all Fees and other charges paid or payable by Licensee shall be apportioned as of the date of vesting of title in such condemnation proceeding. If less than the entire Licensed Premises is taken without affecting the property operation and functioning of occupying agency in the Licensed Premises, the Fee shall be proportionately adjusted.

**ARTICLE 11
DESTRUCTION BY FIRE OR OTHER CASUALTY**

If any portion of the Licensed Premises is totally destroyed or damaged by fire or other casualty, or partially destroyed or damaged to such an extent that it is unsuitable for the purpose for which they are licensed, this License shall immediately terminate and all Fees and other charges paid or payable by Licensee shall be apportioned as of the date of termination. In the event that the Licensed Premises can still be used for the purpose for which they are licensed, Licensor shall promptly commence, and diligently proceed to perform all repair, replacement, and rebuilding work necessary to restore the Licensed Premises to their prior condition.

**ARTICLE 12
NO EMPLOYEE OF LICENSEE HAS ANY INTEREST IN LICENSE**

Licensor warrants and represents that no officer, agent, employee or representative of Licensee has received any payment or other consideration for the making of this License and that no officer, agent, employee or representative of The City of New York has any interest, directly or indirectly, in this License or the proceeds thereof.

**ARTICLE 13
NOTICES**

Section 1. General

 All notices, demands, requests, consents, approvals and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) personally delivered with proof of delivery thereof, (ii) sent by United States certified mail, return receipt requested, postage prepaid, or (iii) sent by electronic mail, or (iv) sent by reputable overnight courier service; provided, that copy is also sent promptly by mail or in a manner as otherwise herein provided, in each case addressed to the respective parties as follows:

If to Licensor:

\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_
Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If to Licensee:

\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

with a copy to:

\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and a copy to:

\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 \_\_\_\_\_\_\_\_\_\_\_\_
 Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

or to such other address or party as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address or addresses shall only be effective upon receipt. Notices shall be deemed given when received if delivered personally or by overnight courier or by electronic mail, or if mailed then two business days after such mailing in the United States, with failure to accept delivery to constitute delivery for purposes hereof.

Section 2. Special Notices

In addition to any other notices expressly required under this License to be given by Licensor to Licensee, Licensor shall immediately give written notice to Licensee of (i) the giving of any notice or the taking of any action by the holder of any mortgage of the Property, the result of which may be the foreclosure of, or the sale or taking of possession of, all or any part of the Licensed Premises, (ii) the commencement of a case in bankruptcy or under the laws of any state naming Licensor as the debtor, or (iii) the making by Licensor of an assignment or any other arrangement for the benefit of creditors under any state statute.

Section 3. Service of Process

Notwithstanding the foregoing, service of process to commence a summary proceeding pursuant to Article 7 of the Real Property Actions and Proceeding Law relating to an occupancy by the City of New York or its agencies or officers of the Licensed Premises which at its commencement was authorized under this License shall be served in the manner required by CPLR Section 311.

**ARTICLE 14
FORCE MAJEURE**

Licensor or Licensee shall not be deemed in default if it is delayed in the performance of any act, matter or thing which it is obligated to perform hereunder, if such delay is an "unavoidable delay". An "**unavoidable delay**" shall mean an act or event beyond the control and without any fault or negligence of the applicable party. Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, governmental restrictions, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the applicable party. In the event of any unavoidable delay, all dates for performance shall automatically be extended by a period equal to the aggregate period of all such delays.

**ARTICLE 15
INDEMNIFICATION**

To the fullest extent permitted by law, Licensor and Licensee shall each indemnify and defend (in the event Licensee is providing a defense to Licensor, such defense shall be provided by the New York City Law Department) and hold harmless the other party from and against any and all liability, fines, suits, claims, demands, expenses and actions of any kind or nature to the extent arising by reason of injury to person (including death) or property occurring on or about the Licensed Premises, the Building, or the Property, occasioned in whole or in part by its, or its agents’, employees or invitees, negligent acts or omissions, intentional tortious act or breach of its obligations under this License. The indemnified party shall not settle a claim, liability or action for which the indemnifying party has an obligation to defend or indemnify without the indemnifying party’s consent which consent shall not be unreasonably withheld or delayed.

**ARTICLE 16
INVESTIGATIONS**

1.1 The parties to this License agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, permit, or license that is the subject of the investigation, audit or inquiry.

1.2(a) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or;

1.2(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

1.3(a) The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, permit, or license shall convene a hearing, upon not less than five (5) days' written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

1.3(b) If any nongovernmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, permit, or license pending the final determination pursuant to paragraph 1.5 below without the City incurring any penalty or damages for delay or otherwise.

1.4 The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

(a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, permit or license with or from the City; and/or

(b) The cancellation or termination of any and all such existing City contracts, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

1.5 The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (c) and (d) below in addition to any other information which may be relevant and appropriate:

(a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(c) The nexus of the testimony sought to the subject entity and its contracts, permits or licenses with the City.

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under 1.4 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in 1.3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

1.6(a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

1.6(b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

1.6(c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, or permits from or through the City or otherwise transacts business with the City.

1.6(d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

1.7 In addition to and notwithstanding any other provision of this agreement, the Commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three (3) days written notice in the event contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment of other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the contractor, or affecting the performance of this contract.

**ARTICLE 17****SEPARABILITY**

If any term, covenant, condition or provision of this License or the application thereof to any circumstance or to any person, firm or corporation shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this License or the application thereof to any circumstances or to any person, firm or corporation other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this License shall be valid and shall be enforceable to the fullest extent permitted by law.

**ARTICLE 18
LICENSOR’S REPRESENTATIONS**

Licensor hereby warrants that it is not in default of any obligation to the City of New York, nor is Licensor, its officers, principals or stockholders a defendant in any action instituted by the City.

**ARTICLE 19
NO WAIVER**

The failure by Licensee to insist, in one or more instances upon the full performance of any Licensor’s covenants, conditions or obligations hereunder shall not be construed as a waiver of a subsequent breach of the same or any other covenant or condition, and the consent or approval by Licensee to or of any act by Licensor requiring Licensee’s consent or approval shall not be construed to waive or render unnecessary Licensee’s consent or approval to or of any subsequent similar act by Licensor. No provision of this License shall be deemed to have been waived by Licensee unless such waiver be in writing signed by Licensee.

**ARTICLE 20
ASBESTOS**

 Licensor and Licensee agree that during the term of this License, Licensor shall abate (i.e. remove, enclose, encapsulate and/or replace) and/or monitor and manage any asbestos containing materials (including, but not limited to, any such materials on boilers, pipes, ducts, breechings, plenum, tanks, spray on or other insulation, and any affected floor tiles, plaster, and ceiling tiles) (collectively "**ACM**") in the Licensed Premises and portions of the Building through which Licensee has access to the Licensed Premises or which may affect the Licensed Premises, upon and subject to the following terms and conditions:

 A. Licensor warrants and represents to the best of its knowledge that as of the Commencement Date there is no ACM in the Licensed Premises.

 (1) In the event that during an inspection ("**Inspection**") of the Licensed Premises and/or portions of the Building through which Licensee has access to the Licensed Premises or which may affect the Licensed Premises, ACM is discovered, Licensor shall, at its sole cost and expense, promptly commence or cause an abatement of any deteriorated ACM, subject to concurrence by DCAS and perform any work incidental thereto (the "**ACM Work**"), by a contractor approved by DCAS, which approval shall not be unreasonably withheld or delayed. Licensor agrees to cause its ACM abatement contractors to maintain appropriate environmental insurance covering the City of New York, including its officials and employees, as an additional insured and with per occurrence and aggregate limits in the amounts required by the Licensor. Licensor shall furnish Licensee with a certificate of insurance and the required additional insured endorsements. Licensor’s agreements with its ACM abatement contractors shall include the following provisions: “(i) Contractor hereby agrees that the City shall not be liable in any manner for payment or otherwise to contractor in connection with the work performed at the premises; (ii) The City is not a party to this contract nor will the City in any way be responsible to any party for any and or all claims of any nature whatsoever arising or which may arise from such contract; and (iii) the contractor waives all rights against the City of New York, including its officials and employees, for any damages or losses that are covered by environmental insurance.”

Licensor shall, within a time frame to be mutually agreed to between Licensor and Licensee, diligently and in good faith complete the ACM Work. Licensor shall give Licensee at least ten (10) days advance written notice of commencement and phasing of any ACM Work. Performance of the ACM Work shall be in accordance with and shall comply with all applicable Federal, State, County and Municipal laws, rules, standards, regulations, requirements and ordinances (collectively "**Laws and Procedures**") governing ACM Work. The contractor performing the ACM Work shall file (and pay all fees associated with) all notices or documents, certifications or other communications required by the City, State and Federal governments as signed by the Licensor as the "Owner". The contractor shall simultaneously forward to Licensee copies of all notices, certifications or other communications given to Licensor or filed with the proper agencies or authorities relating to ACM. In addition, Licensor shall contract for on-site air testing which, in accordance with the rules and regulations of the New York City Asbestos Control Program, must be conducted by a party prescribed by applicable law. The party performing the on-site air testing is subject to prior written approval by DCAS, which approval shall not be unreasonably withheld or delayed.

 B. As set forth above, Licensor shall be required to give Licensee not less than ten (10) days advance written notice of the scheduling of each phase of the ACM Work so that Licensee may relocate its operations and personnel, if necessary, prior to the commencement thereof. Licensor shall consider Licensee's use and occupancy of the Licensed Premises so as to minimize the negative impact of the ACM Work on Licensee's operations in and use of the Building and the Licensed Premises. In the event Licensee must vacate the Licensed Premises or any portion thereof because the ACM Work, in the sole determination of Licensee, renders the Licensed Premises unusable by Licensee, Fee shall abate in the proportion that the portion of the Licensed Premises which is vacated and/or rendered unusable bears to the entire Licensed Premises for the period of time involved, provided it exceeds one full business day. Such abatement of the Fee shall continue until the Licensed Premises or any portion thereof may be used for the purposes set forth in the License, as reasonably determined solely by Licensee, and Licensee certifies same in writing.

 C. If Licensor fails to comply with the requirements of Sections 20(A) and (B) above, Licensee shall, in addition to the remedy set forth above, have the option to effect the ACM Work on its own, as agent for Licensor by hiring any consultants, contractors or experts Licensee deems necessary to plan, effect and supervise the ACM Work and Licensee shall be entitled to offset all costs and expenses associated with the ACM Work against any amounts otherwise due or becoming due to Licensor under the terms of this License, which offset shall be in addition to any applicable abatement or reduction in Fee under Section 20(B) above. Licensee shall not proceed with the ACM Work unless (a) written notice shall first be given to Licensor specifying the manner in which Licensee claims such ACM Work has not been properly completed and (b) Licensor shall have had thirty (30) days following receipt of such notice within which to complete said work. In the event Licensor fails to complete said work within said thirty (30) day period, Licensee may also, in addition to the remedies set forth above, terminate this License on not less than ten (10) days written notice to Licensor.

 D. Following performance and completion of the ACM Work, Licensor shall, at its sole cost and expense, restore the Licensed Premises to the condition that in Licensee’s sole opinion permits Licensee to use the Licensed Premises for the purposes set forth in the License. Licensor shall be solely responsible for all repairs arising out of the performance of the ACM work. Licensor hereby agrees to save, hold harmless and indemnify Licensee, its employees, guests and invitees against any and all claims for bodily injury or property damage in connection with the ACM Work and work incidental thereto.

 E. During the term of this License, Licensor shall, at its sole cost and expense, have any non-deteriorated ACM disclosed by an Inspection under Section 20(A) above of the Licensed Premises and portions of the Building through which Licensee has access to the Licensed Premises or which may affect the Licensed Premises, monitored pursuant to a plan approved by Licensee (the “**Monitor Survey**”) by a New York City Department of Environmental Protection certified asbestos investigator at least once every one hundred eighty (180) days from the Inspection, and Licensor shall immediately provide Licensee with a copy of the results of each such Monitor Survey. The Monitor Survey shall be in accordance with the principles set forth in the EPA Document "Managing Asbestos In Place" (commonly referred to as the "Green Book"), as it may be subsequently revised or replaced by a similar text. If any such Monitor Survey should reveal that ACM has deteriorated, Licensor shall so notify Licensee in writing within five (5) days of the completion of such survey which notice shall be accompanied by a copy of such survey. Licensor shall within five (5) days from the completion of such Monitor Survey commence and diligently proceed to comply with continuity with the provisions of this Article with respect to abatement of any deteriorated ACM described in any such Monitor Survey.

 F. The ACM Work must be performed by Licensor in accordance with Laws and Procedures (including OSHA requirements) and shall be done to the reasonable satisfaction of Licensee. Upon completion of the ACM Work, Licensor shall provide Licensee with a certification of completion of same prepared by a New York City Department of Environmental Protection certified asbestos investigator. At such time, Licensee may reinspect the premises to verify the accuracy of Licensor's certification and advise Licensor if any further work needs to be done.

 G. Notwithstanding anything to the contrary set forth in this License, Licensor shall be required at all times during the term of this License to comply with Laws and Procedures governing ACM and the ACM Work in the Licensed Premises and/or Building.

**ARTICLE 21
BROKERAGE**

Licensee shall in no event be liable for brokerage commissions and Licensor agrees to indemnify and defend Licensee for any and all claims by any broker asserting a claim to a commission resulting from this License.

**ARTICLE 22**

**DEFAULTS**

If Licensee shall default in any monetary or material non-monetary obligation set forth herein and if any such default is not cured within thirty (30) days after notice (unless such default requires work to be performed, acts to be done or conditions removed which cannot, by their nature, reasonably be performed, done or removed within such 30 day period, in which case no default shall be deemed to exist as long as Licensee shall have commenced curing the same within the same within the 30 day period and is diligently and continuously prosecuting the same to completion), then and in such event Licensor shall have the right to cancel and terminate this License upon fifteen (15) business days’ notice and thereupon this License shall be of no force and effect and Licensee shall have no further rights under the License to use or occupy the property licensed to it and shall promptly vacate the space and remove all of the belongings as well as any personal property; provided however, such fifteen (15) business days’ notice of cancellation and termination shall be null and void if Licensee cures such default during such notice period. Licensor’s termination of this License in accordance with the terms of this Article 22 referred to herein as a “**Licensee’s Cause**” termination.

**ARTICLE 23
APPLICABLE LAW**

This License shall be governed by and construed in accordance with thelaws of the State of New York (notwithstanding New York choice of law or conflict of law principles).

**ARTICLE 24
LICENSE ENTIRE AGREEMENT; COUNTERPARTS**

This License sets forth the entire agreement between the parties, superseding all prior agreements and understandings, written or oral, and may not be altered or modified except by a writing signed by both parties. This License may be executed in counterparts which shall together be deemed one original. Electronic transmission by e-mail or otherwise containing a PDF version of a wet signature or an electronic signature shall be sufficient delivery of a fully executed original counterpart.

**ARTICLE 25
CONSTRUING VARIOUS WORDS AND PHRASES**

### Wherever a party hereto “shall” perform (or cause to be performed) any obligations hereunder, such performance shall be at such party’s sole cost and expense, unless otherwise expressly provided in this License.

### Wherever it is provided in this License that a party “**may**” perform an act or do anything, it shall be construed that party “may, but shall not be obligated to,” so perform or so do. The following words and phrases shall be construed as follows: “**at any time**” shall be construed as “at any time or from time to time”; “**any**” shall be construed as “any and all”; “**including**” shall be construed as “including but not limited to ; “**will**” and “**shall**” shall each be construed as mandatory and “**withhold**” (or “**withheld**”) shall be construed as “withhold (withheld), condition(ed) or delay(ed).” Except as otherwise specifically indicated, all references to Article or Section numbers or letters shall refer to Articles and Sections of this License and all references to Exhibits or Appendices shall refer to the Exhibits and Appendices attached to this License. The words “**herein**,” “**hereof**,” “**hereunder**,” “**hereinafter**” and words of similar import shall refer to this License as a whole and not to any particular Article, Section or subsection. Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require. Captions and the index are used in this License for convenience only and shall not be used to construe the meaning of any part of this License.

**ARTICLE 26
BINDING**

This License shall be binding upon the parties hereto, their successors, legal representatives and assigns.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the said parties have caused this License Agreement to be executed the day and year first above written.

 [INSERT FULL LEGAL NAME OF LICENSOR]

 Licensor

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

 Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THE CITY OF NEW YORK

Licensee

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Lorraine Grillo

 First Deputy Mayor

 The City of New York

Approved as to Form:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Acting Corporation Counsel

**EXHIBIT A**

**FLOOR PLAN**

(See attached)

**ADDENDUM 1**

**ADDITIONAL SERVICES**

(See attached)**ADDENDUM 2**

**LICENSOR ALTERATIONS**

(See attached)