AGENCY LEASE AND AGREEMENT

Dated as of June 30, 2016

by and between

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

and

LIC SITE B-1 OWNER, L.L.C.,
a limited liability company organized and existing under the laws of the State of Delaware,
having an office at c/o Tishman Speyer, 45 Rockefeller Plaza, 9th Floor,
New York, New York 10111,
as Lessee

New York City Industrial Development Agency
2016 LIC Site B-1 Owner, L.L.C. Project

Affecting the Land generally known by the street address
28-10 Queens Plaza South, Queens, New York 11101
Block 420 and Lot 1,

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

Record and Return to:

Hawkins Delafield & Wood LLP
28 Liberty Street
New York, New York 10005
Attention: Arthur M. Cohen, Esq.

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AGENCY LEASE AND AGREEMENT

This **AGENCY LEASE AND AGREEMENT**, dated as of the date set forth on the cover page hereof (this "Agreement"), by and between **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 (the **"Agency"**), having its principal office at 110 William Street, New York, New York 10038, party of the first part, and **LIC SITE B-1 OWNER, L.L.C.,** a limited liability company organized and existing under the laws of the State of Delaware (the **"Lessee"**), having an office at c/o Tishman Speyer, 45 Rockefeller Plaza, 9th Floor, New York, New York 11101, party of the second part (capitalized terms used herein shall have the respective meanings assigned to such terms throughout this Agreement);

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 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 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 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 Lessee for a "project" within the meaning of the Act within the territorial boundaries of the City and located on the Land described in Exhibit A — "Description of the Land"; and

WHEREAS, the Project will further the purposes of the Act and promote job opportunities 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 Lessee for the providing of Financial Assistance for the Project; and

WHEREAS, the Project is being developed pursuant to and in accordance with the Deed; and

WHEREAS, to facilitate the Project, the Agency and the Lessee have entered into negotiations to enter into a Straight-Lease Transaction pursuant to which (i) the Lessee has leased the Facility to the Agency pursuant to the Company Lease, and (ii) the Agency will sublease the Facility to the Lessee pursuant to this Agreement; and

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

WHEREAS, the provision by the Agency of Financial Assistance to the Lessee through a Straight-Lease Transaction has been determined to be necessary to induce the Lessee to acquire the Land, to construct the Project Improvements on the Land, to convert an under-utilized public parking garage into a center for office, retail and parking, to create new construction jobs and tax revenues for the City, and to create a projected approximately 3,380 full-time equivalent jobs by the third year following Substantial Completion; and if the Agency does not provide such Financial Assistance, the Lessee 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

DEFINITIONS AND CONSTRUCTION

Section 1.1. Definitions. The following capitalized terms shall have the respective meanings specified for purposes of this Agreement:

Acceptable Accounting Standards shall mean GAAP or other sound and accepted accounting standards approved by the Agency (such approval not to be unreasonably withheld) in writing, applied on a basis consistent with that of previous statements and which completely and accurately disclose the financial condition (including all contingent liabilities) of the party at issue.

Act shall mean, collectively, the Enabling Act and the Agency Act.

Additional Parcel shall mean that certain lot, piece or parcel of land in the Borough of Queens, all as more particularly described in Exhibit A-1 – "Description of the Additional Parcel", together with all easements, rights of way, privileges, benefits, appurtenances, hereditaments, strips, gaps and any and all other rights and interests now or hereafter appurtenant, beneficial or pertaining thereto.

Additional Parcel Agreement of Covenants and Restrictions shall mean the Agreement of Covenants and Restrictions, dated as of June 9, 2011, between LIC Site B2 Owner, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and NYCEDC, as the same may be modified or amended in accordance therewith.

Additional Parcel Inclusion Date shall mean that date upon which title shall be conveyed to and vested in the Lessee by an instrument substantially in the form attached hereto as Exhibit M, and this Agreement and the Company Lease shall be deemed amended to include the Additional Parcel within the Land, as provided in Section 3.9.

Additional Rent shall have the meaning set forth in Section 4.3(b).

Affiliate shall mean, 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.

Affiliate Guarantor shall mean TSCE 2007 Holdings, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, and its permitted successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Affiliate Guarantor under Section 3.6 of the Guaranty Agreement.

Agency shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agency Act shall mean Chapter 1082 of the 1974 Laws of New York, as amended.

Agency Lease Leasehold Estate shall mean that subleasehold estate in the Facility created pursuant to Section 4.1, the expiration or termination of which shall not effect a termination of the balance of this Agreement.

Agency Protection Protocol shall mean that no document, agreement or other instrument (including, without limitation, any mortgage or assignment of leases and rents) (x) shall claim any exemption from any mortgage recording tax by virtue of the Agency's interest in the Facility without the Agency being an executing party thereto and delivering an affidavit as to such exemption for purposes of recording, (y) shall subject the Agency to any obligations or liability, pecuniary or otherwise, and (z) shall include within its pledge, Lien or security interest any interest of the Agency or the Lessee under this Agreement (including any amounts paid or payable hereunder), or the interest of the Agency in the Guaranty Agreement (including any amounts paid or payable to the Agency thereunder).

Agent shall have the meaning set forth in Section 5.2(c).

Agreement shall mean this Agency Lease and Agreement, dated as of the date set forth on the cover page hereof, between the Agency and the Lessee, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Annual Administrative Fee shall mean the annual administrative fee equal to $30,000.

Approved Facility shall mean the Facility as occupied, used, operated and leased by the Lessee substantially for the Approved Project Operations, including such other activities as may be substantially related to or substantially in support of such operations, all to be effected in accordance with this Agreement.

Approved Project Operations shall mean the subleasing of the Facility by the Lessee to various office, retail and other commercial tenants including the making available of a 388-space parking garage in accordance with the ULURP Approval (as defined in the Deed).

Approved Schematics shall mean the schematic drawings for the construction of the Building submitted to NYCEDC by the Lessee on December 28, 2015. A list of the drawings comprising the Schematics is attached as Schedule 1-A to the Deed.

Asserted Cure shall have the meaning specified in Section 8.24(k)(i).

Asserted LW Violation shall have the meaning specified in Section 8.24(k)(i).

Authorized Representative shall mean, (i) in the case of the Agency, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, or any other officer or employee of the Agency who is authorized to perform specific acts or to discharge specific duties, (ii) in the case of the Lessee (including in its capacity as a Guarantor), a person named in

Exhibit C – "Authorized Representative", or any other officer or employee of the Lessee who is authorized to perform specific duties hereunder or under any other Project Document and of whom another Authorized Representative of the Lessee has given written notice to the Agency, and (iii) in the case of the Affiliate Guarantor, a person named in Exhibit C – "Authorized Representative", or any other officer or employee of the Affiliate Guarantor who is authorized to perform specific duties hereunder or under any other Project Document and of whom another Authorized Representative of the Affiliate Guarantor has given written notice to the Agency; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement or any other Project Document, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Authorizing Resolution shall mean the resolution of the Agency adopted on May 10, 2016 inducing the Project and providing for Financial Assistance and authorizing the Project Documents to which the Agency is a party.

Base Rent shall mean the rental payment described in Section 4.3(a).

Benefits shall have the meaning set forth in Section 5.4(a).

Building shall have the meaning assigned to such term by the Deed.

Business Day shall mean any day that shall not be:

(i) a Saturday, Sunday or legal holiday;

(ii) a day on which banking institutions in the City are authorized by law or executive order to close; or

(iii) a day on which the New York Stock Exchange is closed.

Business Incentive Rate shall mean the rate in connection with the Business Incentive Rate program, an energy discount program co-administered by NYCEDC and Con Edison.

Capital Improvements shall mean any buildings, structures, foundations, related facilities, fixtures and other improvements constructed, erected, placed and/or installed on, under and/or above the Land, when such improvements are not part of the Project Work, including, but not limited to, all replacements, improvements, additions, extensions and substitutions to the Project Improvements following Substantial Completion other than by Tenants (except to the extent any of the foregoing are performed in the ordinary course of business, such as work done to reconfigure space or for Tenant fit-out, whether performed by the Lessee or a Tenant, or are otherwise required by this Agreement).

Certificate shall have the meaning specified in Section 8.1(a).

CGL shall have the meaning specified in Section 8.1(a).

City shall mean The City of New York, New York.

City Planning shall mean the City Planning Commission of The City of New York, the Chair of the City Planning Commission of The City of New York, or the City's Department of City Planning, as the context requires.

Claims shall have the meaning set forth in Section 8.2(a).

CM shall have the meaning specified in Section 8.1(a).

Commencement Date shall mean June 30, 2016, on which date this Agreement was executed and delivered.

Company Lease shall mean the Company Lease Agreement, dated as of the date hereof, between the Lessee, as landlord, and the Agency, as tenant, as the same may be amended and supplemented in accordance with its terms and as permitted by the terms thereof.

Completed Improvements Rentable Square Footage shall mean approximately 1,100,000 rentable square feet, the rentable square footage of the Project Improvements upon Substantial Completion.

Comptroller shall have the meaning specified in Section 8.24(b).

Concessionaire shall have the meaning specified in Section 8.24(b).

Construction shall have the meaning specified in Section 8.1(a).

Construction Commencement Date shall have the meaning set forth in the Deed.

Construction Required Amount shall have the meaning specified in Section 8.1(a).

Contractor(s) shall have the meaning specified in Section 8.1(a).

Control or **Controls**, including the related terms "controlled by" and "under common control with", shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

Conveyance shall mean a sale, transfer or other disposition (which shall include a lease of all or substantially all of the Facility to a Person for purposes unrelated to the use or occupancy of the Facility by such Person) of all or any portion of the Facility or any interest therein, other than pursuant to a foreclosure of a Mortgage Loan or a Mezzanine Loan in an arms'-length bona fide transition.

Core and Shell shall mean, with respect to the Building, all improvements necessary to obtain a core and shell certificate (or certificates) of occupancy or completion or a zero occupancy certificate (or certificates) of occupancy or completion for the Building.

Covered Counterparty shall have the meaning specified in Section 8.24(b).

Covered Employer shall have the meaning specified in Section 8.24(b).

DCA shall have the meaning specified in Section 8.24(b).

Deed shall mean, collectively, (y) the Indenture dated as of June 30, 2016 between NYCEDC, as Grantor, and the Lessee, as Grantee, entered into pursuant to the Development Agreement with respect to the Project, and (z) on and after the conveyance of title to the Lessee of the Additional Parcel, such instrument of conveyance (being substantially in the form set forth in Exhibit M to this Agreement), and shall include in each case any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Development Agreement shall mean that certain Amended and Restated Development Agreement, dated as of October 7, 2008, among the City, NYCEDC, LIC Site B, L.L.C., a Delaware limited liability company, and Med-Mac Properties, Inc., a New York corporation.

DOL shall have the meaning set forth in Section 8.7(a).

Due Date shall have the meaning set forth in Section 9.8.

Eligible Items shall mean the following items of personal property and services, but excluding any Ineligible Items, with respect to which the Lessee and any Agent shall be entitled to claim a Sales Tax Exemption in connection with the Project:

(i) purchases of materials, goods, personal property and fixtures and supplies that will be incorporated into and made an integral component part of the Core and Shell of the Building;

(ii) purchases or leases of any item of materials, goods, machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property having a useful life of one year or more that will be incorporated into and made an integral component part of the Core and Shell of the Building;

(iii) with respect to the eligible items identified in (ii) above, purchases of freight, installation, maintenance and repair services required in connection with the shipping, installation, use, maintenance or repair of such items; provided that maintenance shall mean the replacement of parts or the making of repairs;

(iv) purchases of materials, goods and supplies that are to be used and substantially consumed in the course of construction of the Core and Shell of the Building (but excluding fuel, materials or substances that are consumed in the course of

operating machinery and equipment or parts containing fuel, materials or substances where such parts must be replaced whenever the substance is consumed); and

(v) leases of machinery and equipment solely for temporary use in connection with the construction of the Core and Shell of the Building.

Employment Information shall have the meaning set forth in Section 8.7(c).

Enabling Act shall mean the New York State Industrial Development Agency Act, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended.

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.

Environmental Audit shall mean, collectively, (i) the Long Island City Rezoning Environmental Impact Statement (EIS), completed by the New York City Department of City Planning on May 11, 2001 (00DCP055Q); (ii) the 2002 Technical Memorandum for Queens Plaza Municipal Garage Development; and (iii) the Gotham Center Environmental Assessment, completed on December 17, 2010 (10DME003Q), all of which are on file with the Agency.

Environmental Laws shall mean, collectively, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Authorization Act, 49 U.S.C. Section 5101 et seq., the New York Environmental Conservation Law, Section 27-0901 et seq., the Clean Water Act, 33 U.S.C. Section 1321 et seq., and any Federal, State, or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, radioactive, biohazardous or dangerous waste, substance or materials, including any regulations adopted and publications promulgated with respect thereto.

Estimated Project Cost shall mean $709,000,000.

Event of Default shall have the meaning specified in Section 9.1.

Exempt Mortgage shall have the meaning specified in Section 5.3(a).

Existing Facility Property shall have the meaning set forth in Section 3.6(a).

Existing Improvements shall mean, if any, all buildings, structures, foundations, related facilities, fixtures, and other improvements erected, placed and/or situated on, over and/or under the Land and existing on the Commencement Date other than all or any part of the foregoing that (i) is intended to be demolished as part of the Project Work, and (ii) is in fact demolished by the Substantial Completion Outside Date.

Expiration Date shall mean June 29, 2031.

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

Final Project Cost Budget shall mean that certain budget of costs paid or incurred for the Project to be submitted by the Lessee pursuant to Section 3.3(f) upon completion of the Project.

Financial Assistance shall have the meaning assigned to that term in the Enabling Act.

Fiscal Year shall mean a year of 365 or 366 days, as the case may be, commencing on January 1 and ending on December 31 of each calendar year, or such other fiscal year of similar length used by the Lessee for accounting purposes as to which the Lessee shall have given prior written notice thereof to the Agency at least ninety (90) days prior to the commencement thereof.

Fixed Date Deliverables shall have the meaning set forth in Section 9.8(a)(ii).

Form ST-123 shall mean NYSDTF Form ST-123 "IDA Agent or Project Operator Exempt Purchase Certificate" or such additional or substitute form as is adopted by NYSDTF for use in completing purchases that are exempt from Sales and Use Taxes with respect to industrial development agency transactions.

Form ST-340 shall mean NYSDTF Form ST-340 "Annual Report of Sales and Use Tax Exemptions Claimed by Project Operator of Industrial Development Agency/Authority" or such additional or substitute form as is adopted by NYSDTF to report Sales Tax Savings with respect to industrial development agency transactions.

Form ST-60 shall mean NYSDTF Form ST-60 "IDA Appointment of Project Operator or Agent" or such additional or substitute form as is adopted by NYSDTF to report the appointment of project operators or agents with respect to industrial development agency transactions.

GAAP shall mean generally accepted accounting principles and practices, applied on a consistent basis, as set forth in Opinions of the Accounting Principles Board of the American Institute of Certified Public Accountants or in statements of the Financial Accounting Standards Board or their respective successors and which are applicable in the circumstances as of the date in question. Accounting principles and practices are applied on a "consistent basis" when the accounting principles and practices applied in a current period are comparable in all material respects to those accounting principles and practices applied in preceding periods.

Gap Mortgage shall have the meaning specified in Section 5.3(a).

GC shall have the meaning specified in Section 8.1(a).

General Municipal Law shall mean Chapter 24 of the Consolidated Laws of New York, as amended.

Governing Body shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals through which, or under the authority of which, the powers of such Person are exercised.

Governmental Authority shall mean the United States of America, the State of New York, the City (acting in its governmental capacity and not in its proprietary capacity) and any agency, department, legislative body, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having or claiming jurisdiction over the Facility or any portion thereof or any street, road, avenue, sidewalk or body of water immediately adjacent to the Facility, or any vault in or under the Facility.

Guarantors shall mean, collectively, the Lessee and the Affiliate Guarantor.

Guaranty Agreement shall mean the Guaranty Agreement, dated as of even date herewith, from the Guarantors to the Agency, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Hazardous Substances shall mean any (i) "hazardous substance" as defined under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., or (ii) "hazardous waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or (iii) "hazardous materials" as defined under the Hazardous Materials Transportation Authorization Act, 49 U.S.C. Section 5101 et seq., or (iv) "hazardous waste" as defined under New York Environmental Conservation Law, Section 27-0901 et seq., or (v) "hazardous substance" as defined under the Clean Water Act, 33 U.S.C. Section 1321 et seq., and the regulations adopted and publications promulgated pursuant to the above, and any other material, wastes or substances defined as "hazardous" "toxic", "radioactive", "dangerous" or "biohazardous" under any Environmental Law; and (vi) any materials, wastes or substances that are (A) petroleum or petroleum products; (B) asbestos or asbestos-containing materials, (C) polychlorinated biplienyls, (D) lead, (E) radon, (F) flammables, (G) explosives, (H) radioactive materials or (I) materials that may have a negative effect on human health or the environment.

Impositions shall have the meaning set forth in Section 8.17(a).

Improvements shall mean, collectively, the Existing Improvements, if any, the Project Improvements and any Capital Improvements.

Indemnification Commencement Date shall mean May 10, 2016, the date on which the Agency adopted its Authorizing Resolution.

Indemnified Parties shall have the meaning set forth in Section 8.2(a).

Independent Accountant shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Lessee and approved by the Agency (such approval not to be unreasonably withheld, conditioned or delayed).

Ineligible Items shall mean the following items of personal property and services with respect to which the Lessee and any Agent shall not be entitled to claim a Sales Tax Exemption in connection with the Project:

(i) vehicles of any sort, including watercraft and rolling stock;

(ii) personalty having a useful life of one year or less;

(iii) any cost of utilities, cleaning services or supplies or other ordinary operating costs;

(iv) fine art and other similar decorative items;

(v) plants, whether potted or landscaped;

(vi) ordinary office supplies such as pencils, paper clips and paper;

(vii) any materials or substances that are consumed in the operation of machinery;

(viii) equipment or parts containing materials or substances where such parts must be replaced whenever the substance is consumed; and

(ix) maintenance of the type as shall constitute janitorial services.

Information Recipients shall have the meaning set forth in Section 8.7(c).

Initial Annual Administrative Fee shall mean $30,000.

Initial Assignment of Leases and Rents shall mean, collectively, the Building Loan Assignment of Leases and Rents, and the Project Loan Assignment of Leases and Rents, each dated as of the Commencement Date, and each from the Lessee to the Initial Mortgagee.

Initial Construction shall have the meaning specified in Section 8.1(a).

Initial Mortgage shall mean, collectively, the Building Loan Fee and Leasehold Mortgage, Security Agreement, Assignment of Rents and Fixture Filing, and the Project Loan Fee and Leasehold Mortgage, Security Agreement, Assignment of Rents and Fixture Filing, each dated as of the Commencement Date, and each from the Lessee and the Agency to the Initial Mortgagee.

Initial Mortgagee shall mean Bank of the Ozarks.

Initial Mortgage Loan shall mean $275,000,000.

Initial Mortgage Recording Date shall mean that date upon which the Initial Mortgage and the Initial Assignment of Leases and Rents shall be presented for recording to the Office of the City Register of The City of New York.

Institutional Lender shall mean:

(i) a real estate investment trust, bank, savings and loan association, investment bank, insurance company, trust company (whether acting individually or in a fiduciary or representative capacity, whether or not for other Institutional Lenders), commercial credit corporation, pension plan, pension or retirement fund, government Entity or plan, or a religious or educational institution, provided that any such Person referred to in this clause (i) satisfies the Eligibility Requirements (as defined below);

(ii) an investment company, money management firm or "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, as amended, or an institutional "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, as amended, provided that any such Person referred to in this clause (ii) satisfies the Eligibility Requirements;

(iii) an institution substantially similar to any of the foregoing entities, described in clauses (i) or (ii) above, that satisfies the Eligibility Requirements;

(iv) any Entity controlled by any of the Entities described in clauses (i), (ii) or (iii) above;

(v) a Qualified Trustee (as defined below) in connection with a securitization of or the creation of collateralized debt obligations ("CDQ") secured by or financing through an "owner trust" of a loan to finance the Building (collectively, "Securitization Vehicles"), so long as (a) the special servicer or manager of such Securitization Vehicles has the Required Special Servicer Rating (as defined below) and (b) the entire "controlling class" of such Securitization Vehicle, other than with respect to a CDO Securitization Vehicle, is held by one or more Entities that are otherwise Institutional Lenders under clauses (i), (ii), (iii or (iv) of this definition; provided that the operative documents of the related Securitization Vehicle require that (1) in the case of a CDO Securitization Vehicle, the "equity interest" in such Securitization Vehicle is owned by one or more Entities that are Institutional Lenders under clauses (i), (ii), (iii) or (iv) of this definition and (2) if any of the relevant trustee, special servicer or manager fails to meet the requirements of this clause (v), such Person must be replaced by a Person meeting the requirements of this clause (v) within thirty (30) days; or

(vi) an investment fund, limited liability company, limited partnership or general partnership where an Institutional Lender under clauses (i), (ii), (iii) or (iv) of this definition acts as the general partner, managing member or fund manager and at least 50% of the equity interests in such investment vehicle are owned, directly or indirectly, by one or more Entities that are otherwise Institutional Lenders under clauses (i), (ii), (iii) or (iv) of this definition.

For the purpose of this definition,

(1) "control" means the ownership, directly or indirectly, in the aggregate of more than fifty percent (50%) of the beneficial ownership interests of an Entity and the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an Entity, whether through the

ability to exercise voting power, by contract or otherwise; "controlled by," "controlling" and "under common control with" shall have the respective correlative meaning thereto;

(2) "Eligibility Requirements" shall mean, with respect to any Person, that such Person (a) is subject to the jurisdiction of the courts of the State of New York in any actions pertaining to or arising in connection with the lease of the Facility or portion thereof, (b) has net assets of not less than $100,000,000, or such lower amounts as are deemed acceptable in the Agency's sole reasonable discretion, and (c) is not Unqualified;

(3) "Qualified Trustee" shall mean (a) a corporation, national bank, national banking association or a trust company, organized and doing business under the laws of any state or the United States of America, authorized under such laws to exercise corporate trust powers and to accept the trust conferred, having a combined capital and surplus of at least $100,000,000 and subject to supervision or examination by federal or state authority, (b) an institution insured by Federal Deposit Insurance Corporation or (c) an institution whose long-term senior unsecured debt is rated in either of the then in effect top two rating categories of Standard & Poor's Financial Services LLC ("S&P"), Moody's Investors Service, Inc. ("Moody's"), Fitch Ratings, Inc. ("Fitch"), or any other nationally-recognized statistical rating agency; and

(4) "Required Special Servicer Rating" shall mean (a) a rating of "CSSI" in the case of Fitch, (b) on the S&P list of approved special servicers in the case of S&P and (c) in the case of Moody's, such special servicer is acting as special servicer in a commercial mortgage loan securitization that was rated by Moody's within the twelve (12) month period prior to the date of determination, and Moody's has not downgraded or withdrawn the then-current rating on any class of commercial mortgage securities or placed any class of commercial mortgage securities on watch citing the continuation of such special servicer as special servicer of such commercial mortgage securities.

Insured shall have the meaning specified in Section 8.1(a).

Insurer shall have the meaning specified in Section 8.1(a).

ISO shall have the meaning specified in Section 8.1(a).

ISO Form CG-0001 shall have the meaning specified in Section 8.1(a).

Land shall mean, collectively, (y) that certain lot, piece or parcel of land in the Borough of Queens, Block 420, and Lot 1, generally known by the street address 28-10 Queens Plaza South, Queens, New York, all as more particularly described in Exhibit A - "Description of the Land", together with all easements, rights of way, privileges, benefits, appurtenances, hereditaments, strips, gaps and any and all other rights and interests now or hereafter appurtenant, beneficial or pertaining thereto; and (z) on and after the Additional Parcel Inclusion

Date, the Additional Parcel; but excluding, however, in each case, any real property or interest therein released pursuant to Section 8.10(c).

Legal Requirements shall mean the Constitutions of the United States and the State of New York and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates of occupancy, directions and requirements (including zoning and the Zoning Resolution, land use, planning, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wage, living wage, prevailing wage, sick leave, healthcare, benefits and employment practices) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, including those of the City, foreseen or unforeseen, ordinary or extraordinary, that are applicable now or may be applicable at any time hereafter to (i) the Lessee, (ii) the Facility or any part thereof, or (iii) any use or condition of the Facility or any part thereof.

Lessee Owner shall mean LIC Site B-1 Mezz, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and its permitted successors and assigns, as (i) Controlled by TSCE, (ii) the owner of at least ten percent (10%) of the stock, capital, membership or partnership interest, or other equity interest, of the Lessee, and (iii) the managing member or general partner (subject to customary major decision rights of the other members or partners) of the Lessee; or any other similarly structured Entity Controlled by TSCE.

Lessee shall mean LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Lessee under Section 8.9 or 8.20.

Liability shall have the meaning set forth in Section 8.2(a).

Liens shall have the meaning specified in Section 8.11(a).

Loss Event shall have the meaning specified in Section 6.1.

LW shall have the meaning specified in Section 8.24(b).

LW Agreement shall have the meaning specified in Section 8.24(b).

LW Agreement Delivery Date shall have the meaning specified in Section 8.24(b).

LW Event of Default shall have the meaning specified in Section 8.24(b).

LW Law shall have the meaning specified in Section 8.24(b).

LW Term shall have the meaning specified in Section 8.24(b).

LW Violation Final Determination shall have the meaning specified in Section 8.24(k)(i)(1), Section 8.24(k)(i)(2)(A) or Section 8.24(k)(i)(2)(B), as applicable.

LW Violation Initial Determination shall have the meaning specified in Section 8.24(k)(i)(2).

LW Violation Notice shall have the meaning specified in Section 8.24(k)(i).

LW Violation Threshold shall have the meaning specified in Section 8.24(b)

Maximum Sales Tax Savings Amount shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Lessee and all Agents acting on behalf of the Lessee are permitted to receive under this Agreement, which shall equal $7,622,219.

Merge shall have the meaning specified in Section 8.20(a)(v).

Mezzanine Lender shall mean each Institutional Lender, if any, who shall be a lender under a Mezzanine Loan.

Mezzanine Loan shall mean each arms'-length bona fide financing secured by the equity interests in the Lessee or any Entity Controlling the Lessee (and not by a lien on the Facility).

Mezzanine Loan Documents shall mean each instrument, agreement, note or security agreement executed in connection with a Mezzanine Loan.

Modified Exempt Mortgage shall have the meaning set forth in Section 5.3(a).

Mortgagees shall mean each Person, if any, who shall be the mortgagee under a Mortgage, including, without limitation, the Initial Mortgagee.

Mortgage Loans shall mean each arms'-length bona fide Mortgage Loan, if any, referred to in the Project Finance Plan (including the Initial Mortgage Loan), together with any subsequent arms'-length bona fide Mortgage Loan provided by a Mortgagee.

Mortgage Notes shall mean each mortgage note, if any, referred to in the Project Finance Plan, together with any subsequent mortgage notes provided to a Mortgagee.

Mortgage Recording Taxes shall have the meaning specified in Section 5.3(a).

Mortgages shall mean the Initial Mortgage (including the Initial Assignment of Leases and Rents) and each subsequent new, gap, consolidated, amended, restated or other mortgage (and/or assignment of leases and rents) creating a lien upon the Facility which is provided by an Institutional Lender. Each Mortgage (including each assignment of leases and rents) shall conform to the Agency Protection Protocol.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Agency or any Mortgagee) incurred in the collection thereof.

New Money shall have the meaning specified in Section 5.3(a).

Notification of Failure to Deliver shall have the meaning specified in Section 9.8(b).

NYCEDC shall mean New York City Economic Development Corporation, and any successor thereof.

NYCDOF shall mean the New York City Department of Finance.

NYSDTF shall mean the New York State Department of Taxation and Finance.

OCIP/CCIP shall have the meaning specified in Section 8.1(a).

Opinion of Counsel shall mean a written opinion of counsel for the Lessee, the Affiliate Guarantor or any other Person (which counsel shall be reasonably acceptable to the Agency) with respect to such matters as required under any Project Document or as the Agency may otherwise reasonably require, and which shall be in form and substance reasonably acceptable to the Agency.

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.

Owed Interest shall have the meaning specified in Section 8.24(b).

Owed Monies shall have the meaning specified in Section 8.24(b).

Parking Obligation shall mean the requirement that at least 388 parking spaces be maintained at the Facility, as imposed by City Planning in connection with the ULURP Approval, as such requirement may be modified from time to time.

Per Diem Fees shall mean, collectively, the Per Diem Late Fee and the Per Diem Supplemental Late Fee.

Per Diem Holdover Rental Amount shall mean that per diem rental amount established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from such general applicability as may be established by the Agency's Board of Directors) and that have failed to terminate the Company Lease, the Agency Lease Leasehold Estate and this Agreement within the ten (10) day period referred to in Section 10.2.

Per Diem Late Fee shall mean that per diem late fee established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from such general applicability as may

be established by the Agency's Board of Directors) and that have not (x) paid to the Agency the Annual Administrative Fee on the date required under Section 8.3, (y) delivered to the Agency all or any of the Fixed Date Deliverables on the respective dates required under Section 8.14 or 8.16, and/or (z) delivered to the Agency all or any of the Requested Document Deliverables under Section 8.15 within five (5) Business Days of the Agency having made the request therefor.

Per Diem Supplemental Late Fee shall mean that supplemental per diem late fee established from time to time by the Agency's Board of Directors generally imposed upon Entities receiving or that have received Financial Assistance (subject to such exceptions from general applicability as may be established by the Agency's Board of Directors).

Permitted Encumbrances shall mean:

(i) this Agreement, the Company Lease, the Deed and any Mortgage;

(ii) Liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' Lien, security interest, encumbrance or charge or right in respect thereof, placed on or with respect to the Facility or any part thereof, if payment is not yet due and payable, or if such payment is being disputed pursuant to Section 8.11(b);

(iv) utility, access and other easements and rights of way, restrictions and exceptions that an Authorized Representative of the Lessee certifies to the Agency will not materially interfere with or impair the Lessee's use and enjoyment of the Facility as herein provided;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, as set forth in a certificate of an Authorized Representative of the Lessee delivered to the Agency, either singly or in the aggregate, render title to the Facility unmarketable or materially impair the property affected thereby for the Approved Project Operations or purport to impose liabilities or obligations on the Agency;

(vi) those exceptions to title to the Facility enumerated in any title insurance policy insuring the Lien of the Initial Mortgage on the Facility, so long as such exceptions are reflected in the title reports delivered to the Agency pursuant to Section 3.8;

(vii) Liens arising by reason of good faith deposits with the Lessee in connection with the tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the Lessee to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

(viii) any Lien arising by reason of deposits with, or the giving of any form of security to, any Governmental Authority or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Lessee to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, old age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

(ix) any judgment Lien against the Lessee, so long as the finality of such judgment is being contested in good faith and execution thereon is stayed;

(x) any purchase money security interest in movable personal property, including equipment leases and financing;

(xi) Liens on property due to rights of governmental entities or third party payors for recoupment of excess reimbursement paid;

(xii) a Lien, restrictive declaration or performance mortgage with respect to the operation of the Facility arising by reason of a grant or other funding received by the Lessee from the City, the State or any Governmental Authority or instrumentality;

(xiii) any additional leasehold interest in the Facility or any portion thereof granted by the Lessee to the Agency and any sublease, sale, assignment or other transfer of such leasehold interest by the Agency to the Lessee;

(xiv) any Lien, security interest, encumbrances or charge approved in writing by the Agency from time to time, in its reasonable discretion;

(xv) any Tenant Lease meeting the requirements of this Agreement including any memorandum of lease with respect to such Tenant Lease;

(xvi) any subordination and non-disturbance agreement executed in favor of a Tenant;

(xvii) the Declaration of Zoning Lot Restrictions, to be dated as of the Additional Parcel Inclusion Date, by 2 Gotham Center Condominium acting by and through its board of managers and the Lessee, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof;

(xviii) the Zoning Lot Development and Easement Agreement, to be dated on or after the Additional Parcel Inclusion Date, by 2 Gotham Center Condominium and the Lessee, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof;

(xix) the Reciprocal Easement Agreement, to be dated on or after the Additional Parcel Inclusion Date, by LIC Site B2 Owner, L.L.C., 2 Gotham Center Condominium and the Lessee, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof;

(xx) the Light and Air Easement Declaration, to be dated on or after the Additional Parcel Inclusion Date, by 2 Gotham Center Condominium, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof; and

(xxi) the Access Easement Declaration, to be dated on or after the Additional Parcel Inclusion Date, by LIC Site B2 Owner, L.L.C. and 2 Gotham Center Condominium, as the same may be amended, modified or supplemented from time to time in accordance with the terms thereof.

Person shall mean an individual or any Entity.

Policy(ies) shall have the meaning set forth in Section 8.1(a)

Predecessor Lessee shall have the meaning set forth in Section 8.20(b)(ii).

Premises shall mean, for the purposes of the definition of "ULURP Approval", collectively: (i) all that land located on Block 420, Lot 1 in the Borough of Queens, New York, as depicted on the New York City Tax Map in effect as of October 7, 2008, and (ii) any and all structures or other improvements and appurtenances of every kind and description now existing on the land described in the foregoing clause (i) or any portion thereof, including, but not limited to, landscaping and any and all alterations thereto, replacements thereof, and substitutions therefor.

Pre-Substantial Completion and Stabilization Transfer Restrictions shall have the meaning set forth in the Deed.

Prevailing Wage Law shall have the meaning specified in Section 8.24(b).

Principals shall mean, with respect to any Entity, (i) the most senior three officers of such Entity, (ii) any Person with a ten percent (10%) or greater ownership interest in such Entity (except that if such Entity is listed on any national or regional stock exchange, including electronic exchanges, then the "Principals" of such Entity will not include any such Person unless they are also a Principal by virtue of clause (i) or clause (iii) hereof), and (iii) any Person as shall have the power to Control such Entity, and "Principal" shall mean any of such Persons.

Project shall mean the acquisition and construction of a commercial facility in Long Island City, New York consisting of the acquisition of the Land and the construction thereon of two multiple story towers comprising approximately 1.1 million square feet, all for a development to consist of approximately 1.1 million gross square feet of Class A office space, approximately 50,000 gross square feet of retail space and a 388 space parking garage in

accordance with the ULURP Approval, for sublease by the Lessee to various office, retail and other commercial tenants, and having a project cost of approximately $709,000,000.

Project Application Information shall mean the eligibility application and questionnaire submitted to the Agency by or on behalf of the Lessee for approval by the Agency of the Project and the providing of Financial Assistance by the Agency therefor, together with all other letters, documentation, reports and financial information submitted in connection therewith.

Project Completion Date shall mean the date by which all of the following conditions have been satisfied: (i) the Agency shall have received a signed and complete certificate of an Authorized Representative of the Lessee in substantially the form set forth in Exhibit G – "Form of Project Completion Certificate", together with all attachments required thereunder, and (ii) the Project Work shall have been finished and the Project Improvements shall have been completed substantially in accordance with the plans and specifications therefor, including, without limitation, the Approved Schematics.

Project Cost Budget shall mean that certain budget as set forth by the Lessee in Exhibit E — "Project Cost Budget".

Project Counsel shall mean attorneys or a firm of attorneys that are recognized for their expertise in municipal finance law and are selected by the Agency to render legal advice to the Agency in connection with the transactions contemplated by this Agreement.

Project Documents shall mean the Company Lease, this Agreement, the Additional Parcel Agreement of Covenants and Restrictions, the Deed, the Guaranty Agreement, each Mortgage and each Mortgage Note.

Project Fee shall mean $928,333, representing the $943,333 Agency financing fee, less the application fee of $15,000.

Project Finance Plan shall mean the plan for financing of the costs of the Project set forth in Exhibit J – "Project Finance Plan".

Project Improvements shall mean all buildings (including the Building), structures, foundations, related facilities, fixtures and other improvements comprising the initial construction of two multiple story towers comprising approximately 1.1 million square feet located on the Land, all for a development to consist of approximately 1.1 million gross square feet of Class A office space, approximately 50,000 gross square feet of retail space and a 388 space parking garage in accordance with the ULURP Approval.

Project Payments shall have the meaning set forth in Section 10.2.

Project Work shall mean the work required to complete the Project as such work is further explained by reference to the Project Cost Budget.

Qualified Workforce Program shall have the meaning specified in Section 8.24(b).

Real Property Taxes shall mean (a) general ad valorem real estate taxes of the kind presently levied by the City by authority of the New York Real Property Tax Law and Title 11 of the Administrative Code and Charter of The City of New York, or (b) any other general tax on or with respect to real property that may hereafter be levied by the City in substitution for such general ad valorem real estate taxes.

Recapture Event shall have the meaning set forth in Section 5.4(a).

Recapture Period shall have the meaning set forth in Section 5.4(a).

Rental Payments shall mean, collectively, Base Rent and Additional Rent.

Requested Document Deliverables shall have the meaning set forth in Section 9.8(a).

Required Disclosure Statement shall mean that certain Required Disclosure Statement in the form of Exhibit F – "Form of Required Disclosure Statement".

Reverter Event shall have the meaning set forth in the Deed.

Sales and Use Taxes shall mean City and State sales and compensating use taxes and fees imposed pursuant to Article 28 or 28-A of the New York State Tax Law, as the same may be amended from time to time.

Sales Tax Agent Authorization Letter shall mean the Sales Tax Agent Authorization Letter, substantially in the form set forth in Exhibit H – "Form of Sales Tax Agent Authorization Letter" and to be delivered in accordance with Section 5.2(e).

Sales Tax Exemption shall mean an exemption from Sales and Use Taxes resulting from the Agency's participation in the Project.

Sales Tax Registry shall mean the Sales Tax Registry in the form set forth in Exhibit I.

Sales Tax Savings shall mean all Sales Tax Exemption savings realized by or for the benefit of the Lessee, including any savings realized by any Agent, pursuant to this Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Project.

Sign shall have the meaning set forth in Section 8.5.

Site Affiliates shall have the meaning specified in Section 8.24(b).

Site Employee shall have the meaning specified in Section 8.24(b).

SIR shall have the meaning specified in Section 8.1(a).

Small Business Cap shall have the meaning specified in Section 8.24(b).

Special Provisions shall have the meaning set forth in Subsection 5.2(h).

Specified Contract shall have the meaning specified in Section 8.24(b).

Stabilization shall have the meaning set forth in the Deed.

State shall mean the State of New York.

State Sales and Use Taxes shall mean sales and compensating use taxes and fees imposed by Article 28 or 28-A of the New York State Tax Law but excluding such taxes imposed in a city by Section 1107 or 1108 of such Article 28, as the same may be amended from time to time.

State Sales Tax Savings shall mean all Sales Tax Exemption savings relating to State Sales and Use Taxes realized by or for the benefit of the Lessee, including any savings realized by any Agent, pursuant to this Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Project.

Straight-Lease Transaction shall have the meaning assigned to that term in the Enabling Act.

Substantial Completion and **Substantially Complete** shall have the meaning set forth in the Deed.

Substantial Completion Date shall have the meaning set forth in the Deed.

Substantial Completion Outside Date shall have the meaning set forth in the Deed.

Successor Lessee shall have the meaning set forth in Section 8.20(b)(ii).

Surviving Obligations shall mean the following Sections of this Agreement which shall survive the termination or expiration of this Agreement, whether by the occurrence of a Reverter Event, foreclosure or otherwise: Sections 5.2, 5.3, 5.4, 8.2, 9.2, 9.6, 9.8, 11.4, 11.5, 11.6, 11.11, 11.13 and 11.14.

Tenant shall mean any Person who shall lease (other than the Lessee or the Agency), use or occupy any portion of the Facility pursuant to a Tenant Lease.

Tenant Lease shall mean any lease or sublease by the Lessee (or by any other Person, other than the Agency, whose leasehold estate in the Facility or any portion thereof is derivative of the Lessee) of real property constituting all or any part of the Facility, any tenancy (other than by the Agency) with respect to the Facility or any part thereof, whether or not in writing, any license or concession agreement and any other agreement, by whatever name called, involving a transfer or creation of possessory rights or similar rights of use or occupancy in the Facility or any part thereof without transfer of title (other than the Company Lease or this Agreement), and any and all guarantees of any of the foregoing (other than the Guaranty Agreement), whether now existing or hereafter made; provided, however, any assignment by a Tenant of a Tenant Lease by the existing Tenant to a new Person shall be deemed a new Tenant Lease.

Term shall have the meaning set forth in Section 4.2.

Termination Date shall mean such date on which this Agreement may terminate pursuant to its terms and conditions prior to the Expiration Date.

Transfer shall have the meaning set forth in Section 8.20(a)(iv).

Transferee shall mean a Person to whom the Facility is conveyed and/or the Project Documents are assigned.

TSCE shall mean Tishman Speyer Crown Equities, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, and its permitted successor and assigns.

U/E shall have the meaning specified in Section 8.1(a).

ULURP shall have the meaning set forth in the Deed.

ULURP Approval shall have the meaning set forth in the Deed.

Unavoidable Delay shall means delays from any and all causes beyond the Lessee's reasonable control, including, without limitation, delays resulting from actions of NYCEDC as Grantor under the Deed (provided such are not themselves the result of actions by the Lessee), governmental restrictions, labor disputes (including strikes, slowdowns and similar labor problems), accident, mechanical breakdown, shortages or inability to obtain labor, fuel, steam, water, electricity, equipment or materials (for which no substitute is readily available at a comparable price), acts of God (including extraordinary severe weather conditions), removal of Hazardous Substances, enemy action, acts of terrorism, civil commotion, fire or other casualty (with respect to Substantial Completion of the Building as required hereunder, an Unavoidable Delay shall include, in addition to the delays listed above, any other delay of which the Lessee has given the Agency and NYCEDC written notice and to which the Agency and NYCEDC consent in their sole discretion). In addition, if the Lessee determines that it would be reasonably prudent to delay taking any further action in furtherance of the Project or any part thereof because of the commencement and pendency of any action, suit or proceeding (including all appeals in connection therewith) contesting the Project or any portion thereof or the legality or validity of any action taken by any Governmental Authority in connection therewith (in each instance, whether or not the Lessee is enjoined or otherwise restrained from taking any action with respect to all or any part of the Project), then the Lessee shall notify the Agency and NYCEDC in writing of such determination, stating in reasonable detail its reasons therefor, and any attendant or resultant delay shall be an Unavoidable Delay, provided the Lessee (if the Lessee is a party defendant) shall have commenced contesting or defending, and shall be diligently contesting or prosecuting the defense of such action, suit or proceeding, and provided, further, that the period of Unavoidable Delay shall not be deemed to have commenced until the Lessee shall have so notified in writing the Agency and NYCEDC of such determination.

Unqualified shall mean, with respect to a Person, that such Person or one or more of such Person's Principals: (i) is in default or in breach, beyond any applicable grace period, of its material obligations under any written agreement with NYCEDC, the Agency or the City,

unless such default or breach has been waived or settled in writing by NYCEDC, the Agency or the City, as the case may be; (ii) any such Person or Principal (a) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure; or (iii) has received formal written notice from a federal, state or local governmental agency or body that such Person or Principal is currently under investigation for a felony criminal offense; (iv) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, unless such default has been cured or is then being contested with due diligence in proceedings in a court or other appropriate forum; or (v) has owned at any time in the preceding three (3) years any property which, at the time of such party's ownership, was acquired by the City by in rem tax foreclosure, other than a property in which the City has released or is in the process of releasing its interest to such party pursuant to the Administrative Code of the City.

Workers' Compensation shall have the meaning specified in Section 8.1(a).

Zoning Resolution shall mean the Zoning Resolution of The City of New York, as it may be from time to time amended, modified, replaced or superseded.

Section 1.2. Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the Commencement Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships and limited liability partnerships), trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless the context indicates otherwise, references to designated "Exhibits", "Appendices," "Schedules," "Articles", "Sections", "Subsections", "clauses" and other subdivisions are to the designated Exhibits, Appendices, Schedules, Articles, Sections, Subsections, clauses and other subdivisions of or to this Agreement.

(f) The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(g) The word "will" shall be construed to have the same meaning and effect as the word "shall".

(h) Any definition of or reference to any agreement, instrument or other document herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein or herein).

(i) Any reference to any Person, or to any Person in a specified capacity, shall be construed to include such Person's successors and assigns or such Person's successors in such capacity, as the case may be.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties by Agency. The Agency makes the following representations and warranties:

(a) The Agency is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State.

(b) Assuming the accuracy of representations made by the Lessee, the Agency is authorized and empowered to enter into the transactions contemplated by this Agreement and any other Project Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder.

(c) By proper action of its board of directors, the Agency has duly authorized the execution and delivery of this Agreement and each of the other Project Documents to which the Agency is a party.

Section 2.2. Representations and Warranties by the Lessee. The Lessee makes the following representations and warranties:

(a) The Lessee is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of any of the Lessee'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 Agreement and each other Project Document to which it is or shall be a party. The Lessee is in compliance with the Pre-Substantial Completion and Stabilization Transfer Restrictions.

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

(c) The execution, delivery and performance of this Agreement and each other Project Document to which the Lessee 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 Lessee's Organizational Documents, or any indenture, agreement or other instrument to which the Lessee 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.

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

(e) The Financial Assistance provided by the Agency to the Lessee through the Straight-Lease Transaction as contemplated by this Agreement is necessary to induce the Lessee to proceed with the Project.

(f) The transactions contemplated by this Agreement shall not result in the removal of any facility or plant of the Lessee or any other occupant or user of the Facility from one area of the State outside of the City to within the City or in the abandonment of one or more facilities or plants of the Lessee or any other occupant or user of the Facility located within the State, but outside of the City.

(g) The transactions contemplated by this Agreement shall not provide Financial Assistance in respect of any project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities constitute more than one-third of the total project costs. For purposes of this Section 2.2(g), "retail sales" shall mean (i) sales by a registered vendor under article twenty-eight of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of Section eleven hundred one of the New York Tax Law, or (ii) sales of a service to such customers.

(h) Undertaking the Project is anticipated to serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State.

(i) No funds of the Agency shall be used by the Lessee in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promoting materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

(j) The Facility will be the Approved Facility and a qualified "project" within the meaning of the Act.

(k) Upon completion of the Project Work and of Substantial Completion, (i) the gross square footage of the Project Improvements constituting retail space shall not exceed 40,000 gross square feet, (ii) the Sales Tax Exemption shall only have been utilized for Eligible Items and shall not have exceeded the Maximum Sales Tax Savings Amount, (iii) the Project Improvements shall have satisfied the Parking Obligation, and (iv) the Facility shall have been completed consistent with the requirements of the Deed.

(l) The Lessee 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 Agreement 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.

(m) The Project will be designed, and the operation of the Facility will be, in compliance with all applicable Legal Requirements.

(n) The Lessee is in compliance, and will continue to comply, with all applicable Legal Requirements relating to the Project, the Project Work and the operation of the Facility.

(o) The Lessee has delivered to the Agency a true, correct and complete copy of the Environmental Audit.

(p) The Lessee has not used Hazardous Substances on, from, or affecting the Facility in any manner that violates any applicable Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Substances, and except as set forth in the Environmental Audit, to the best of the Lessee's knowledge, no prior owner or occupant of the Facility has used Hazardous Substances on, from, or affecting the Facility in any manner that violates any applicable Legal Requirements.

(q) The Project Cost Budget attached as Exhibit E – "Project Cost Budget" represents a true, correct and complete budget as of the Commencement Date of the proposed costs of the Project; the Estimated Project Cost is a fair and accurate estimate of the Project Cost as of the Commencement Date; and that portion of the Estimated Project Cost as shall not derive from the Initial Mortgage Loan shall be provided from the sources set forth on Exhibit E - "Project Cost Budget". The Lessee has no reason to believe as of the Commencement Date that funds or financing sufficient to complete the Project and effect Substantial Completion by the Substantial Completion Outside Date will not be obtainable.

(r) The amounts provided to the Lessee pursuant to the Initial Mortgage Loan, together with other moneys available to the Lessee, are sufficient to pay all costs in connection with the completion of the Project and the effecting of Substantial Completion by the Substantial Completion Outside Date.

(s) All of the Land, as of the Commencement Date, comprises one complete tax lot and no portion of any other tax lot.

(t) Subject to Section 3.6 and Article VI, no property constituting part of the Facility shall be located at any site other than at the Facility.

(u) It is anticipated that upon completion of the Project, the Completed Improvements Rentable Square Footage will be true and correct.

(v) The Fiscal Year is true and correct.

(w) None of the Lessee, the Principals of the Lessee, or, as of the Commencement Date, any Person that is an Affiliate of the Lessee:

(i) is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency, NYCEDC or the City, unless such default or breach has been waived in writing by the Agency, NYCEDC or the City, as the case may be;

(ii) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(iii) has been convicted of a felony in the past ten (10) years;

(iv) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(v) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in a court or other appropriate forum.

(x) The Project Application Information was true, correct and complete as of the date submitted to the Agency, and no event has occurred or failed to occur since such date of submission which would cause any of the Project Application Information to include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make such statements not misleading.

(y) Information as to the Principals of the Lessee, of TSCE and of the Affiliate Guarantor, and as to their respective ownership interests in the Lessee, TSE and the Affiliate Guarantor as set forth in Exhibit D are true, correct and complete.

(z) The Initial Mortgagee is an Institutional Lender, and the Initial Mortgage Loan was entered into in a bona fide arms'-length transaction.

(aa) The Lessee Owner is Controlled by TSCE, and the Lessee Owner (y) holds at least ten percent (10%) of the membership interests in the Lessee, and (z) is the managing member (subject to customary major decision rights of the other members) of the Lessee. The Lessee is indirectly Controlled by the Affiliate Guarantor, and the Affiliate Guarantor (y) indirectly holds at least ten percent (10%) of the membership interests in the Lessee and (z) a subsidiary of the Affiliate Guarantor is the managing member (subject to customary major decision rights of the other members) of the Lessee.

(bb) The operation of the Facility in the manner presently contemplated and as described in this Agreement and in the other Project Documents will not materially conflict with any zoning, environmental, water or air pollution law, ordinance or regulation or any similar law, ordinance or regulation applicable thereto.

(cc) The Lessee is the fee simple title owner of the Facility and, pursuant to the Company Lease, the Lessee has vested the Agency with a valid leasehold estate in the Facility.

(dd) The amount of financial assistance to be provided by the Agency to the Lessee on the Initial Mortgage Recording Date in the form of mortgage recording tax exemption is $7,700,000, based upon the maximum aggregate amount of mortgage-secured indebtedness to be incurred by the Lessee for the Project under the Initial Mortgage equaling $275,000,000.

(ee) There is no existing violation against the Facility filed by any court or administrative agency that may prohibit the ability of the Lessee to construct, use or operate the Facility for its intended purposes or for which the Lessee has not otherwise agreed or made arrangements to have removed and satisfied of record.

(ff) No portion of the Facility shall be used for any residential or housing purposes.

(gg) The Additional Parcel Agreement of Covenants and Restrictions continues in full force and effect.

ARTICLE III

LEASEHOLD INTEREST CONVEYED TO THE AGENCY; THE PROJECT; MAINTENANCE; REMOVAL OF PROPERTY AND TITLE REPORT

Section 3.1. The Company Lease.

(a) Pursuant to the Company Lease, the Lessee has leased to the Agency the Land, and all rights or interests therein or appertaining thereto, together with all Existing Improvements thereon or therein as of the date thereof, free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances.

(b) A valid leasehold interest in all Improvements incorporated or installed in the Facility as part of the Project shall vest in the Agency immediately upon delivery to or installation or incorporation into the Facility or payment therefor, whichever shall occur first.

(c) The Lessee shall take all action necessary to so vest a valid leasehold interest in such Improvements in the Agency and to protect such leasehold interest and title claims against claims of any third parties.

Section 3.2. Appointment as Agent.

The Agency hereby appoints the Lessee its true and lawful agent, and the Lessee hereby accepts such agency for purposes of undertaking the Project Work, with the same powers and with the same validity and effect as the Agency could do if acting in its own behalf, including:

(i) effecting the Project Work,

(ii) making, executing, acknowledging and delivering any contracts, orders, receipts, writings and instructions with any other Persons (subject in each case to Section 5.2), and in general doing all things which may be requisite or proper, all for the purposes of undertaking the Project Work,

(iii) paying all fees, costs and expenses incurred in the Project Work from funds made available therefor in accordance with or as contemplated by this Agreement, and

(iv) asking, demanding, suing for, levying, recovering and receiving all such sums of money, debts due and other demands whatsoever that may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the Project Work and to enforce the provisions of any contract, agreement, obligation, bond or other performance security entered into or obtained in connection with the Project Work.

Section 3.3. Manner of Project Completion.

(a) The Lessee shall (i) commence construction of the Project Improvements on the Land, which Project Improvements shall contain a minimum of 1,021,077 aggregate gross square feet (i.e., the aggregate sum of the gross areas of the several floors of the Building, both above and below grade, measured from the exterior faces of exterior walls or from the center lines of walls separating the two buildings comprising the Building, substantially in accordance with (w) the Deed, (x) the Approved Schematics, (y) the ULURP Approval, and (z) any other approval of the City Planning Commission in connection with the development of the Premises, (ii) commence material excavation work at the Land by no later than the Construction Commencement Date, and (iii) effect Substantial Completion and complete the Project Work by no later than the Substantial Completion Outside Date, subject, however, in each case, to Unavoidable Delay. NYCEDC and its successors, assigns and designees shall be an express third party beneficiary of the obligation of the Lessee in this Section 3.3(a).

(b) The Lessee will complete the Project Work, or cause the Project Work to be completed, in a first class workmanlike manner, free of defects in materials and workmanship (including latent defects). In undertaking the Project Work, the Lessee shall take such action and institute such proceedings as shall be necessary to cause and require all contractors, manufacturers and suppliers to complete their agreements relating to the Project Work in accordance with the terms of the contracts therefor including the correction of any defective work.

(c) The cost of the Project Work shall be financed in accordance with the Project Finance Plan. In the event moneys derived from the Initial Mortgage Loan are not sufficient to pay the costs necessary to complete the Project Work in full, the Lessee shall pay or cause to be paid that portion of such costs of the Project Work as may be necessary to complete the Project Work, and shall not be entitled to any reimbursement therefor from the Agency, nor shall the Lessee be entitled to any diminution of the Rental Payments to be made under this Agreement.

(d) The Lessee shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance, the delivery thereof and of any instruments and documents relating thereto and the filing and recording of any such instruments of conveyance or other instruments or documents, if required, (ii) all taxes and charges payable in connection with the vesting with the Agency of a leasehold estate in the Facility, or attributable to periods prior to such vesting, as set forth in Sections 3.1 and 3.2, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project Work.

(e) The Lessee will perform or cause to be performed the Project Work in accordance with all applicable Legal Requirements and with the conditions and requirements of all policies of insurance with respect to the Facility and the Project Work. Promptly upon finishing of the Project Work and the completion of the Project Improvements, the Lessee will obtain or cause to be obtained all required permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility as an Approved Facility and shall furnish copies of same to the Agency promptly upon the Agency's demand therefor.

(f) Upon completion of the Project Work, the Lessee shall (x) deliver to the Agency the Final Project Cost Budget, which budget will include a comparison with the Project Cost Budget, and indicate the source of funds (i.e., borrowed funds, equity, etc.) for each cost item, (y) evidence the completion of the Project and the occurrence of the Project Completion Date by delivering to the Agency a certificate of an Authorized Representative of the Lessee in substantially the form set forth in Exhibit G – "Form of Project Completion Certificate", together with all attachments required thereunder, and (z) deliver and surrender to the Agency all original Sales Tax Agent Authorization Letters issued by the Agency in connection with the Project.

(g) Upon reasonable request by the Agency, the Lessee shall make available to the Agency copies of any bills, invoices or other evidences of costs as shall have been incurred in the effectuation of the Project Work.

(h) In the event that the aggregate costs of the Project Work upon the completion thereof shall be significantly different from the estimated costs thereof set forth in the Project Cost Budget (i.e., more than a ten percent (10%) difference in either total Project costs or in major categories of Project Work cost), on request of the Agency, the Lessee shall provide evidence to the reasonable satisfaction of the Agency as to the reason for such discrepancy, and that the scope of the Project Work as originally approved by the Agency has not been modified in a material manner without the prior written consent of the Agency.

Section 3.4. Maintenance.

(a) During the Term, the Lessee will:

(i) keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted,

(ii) occupy, use and operate the Facility, or cause the Facility to be occupied, used and operated, as the Approved Facility, and

(iii) make or cause to be made all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) necessary to ensure that the operations of the Lessee at the Facility shall not be materially impaired or diminished.

(b) All replacements, renewals and repairs shall be similar in quality, class and value to the original work and be made and installed in compliance with all applicable Legal Requirements.

(c) The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility, and the Lessee hereby agrees to assume full responsibility therefor.

Section 3.5. Capital Improvements.

(a) The Lessee shall have the right from time to time to make Capital Improvements to the Facility following the Project Completion Date as it may determine in its discretion to be desirable for its uses and purposes, provided that:

(i) as a result of the Capital Improvements, the fair market value of the Facility is not materially reduced below its fair market value immediately before the Capital Improvements are made and the usefulness, structural integrity or operating efficiency of the Facility is not materially impaired,

(ii) the Capital Improvements are effected with due diligence, in a good and workmanlike manner and in compliance with the Project Documents and all applicable Legal Requirements,

(iii) the Capital Improvements are promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and

(iv) the Capital Improvements do not change the nature of the Facility so that it would not constitute the Approved Facility and a qualified "project" within the meaning of the Act.

(b) All Capital Improvements shall constitute a part of the Facility, subject to the Project Documents.

(c) If at any time after the Project Completion Date, the Lessee shall make any Capital Improvements (excluding Capital Improvements to the interior of the Facility performed by Lessee or a Tenant, such as fit-out work), the Lessee shall notify an Authorized Representative of the Agency of such Capital Improvements by delivering written notice thereof within thirty (30) days after the completion of the Capital Improvements.

Section 3.6. Removal of Property of the Facility.

(a) Subject to the rights of Tenants under their respective Tenant Leases, the Lessee shall have the right from time to time to remove from the Facility any fixture constituting part of the Facility (in any such case, the "**Existing Facility Property**"), and thereby remove such Existing Facility Property from the leasehold estates of the Company Lease and this Agreement; provided, however:

(i) such Existing Facility Property is substituted or replaced by property (y) having equal or greater fair market value, operating efficiency and utility and (z) free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances, and

(ii) no such removal shall be effected if (w) such removal would change the nature of the Facility as the Approved Facility and a qualified "project" within the meaning of the Act, (x) such removal would materially impair the usefulness, structural integrity or operating efficiency of the Facility, (y) such removal would

materially reduce the fair market value of the Facility below its value immediately before such removal, or (z) there shall exist and be continuing an Event of Default hereunder.

(b) Within thirty (30) days after receipt of written request of the Lessee, the Agency shall deliver to the Lessee appropriate documents conveying to the Lessee all of the Agency's right, title and interest in any property removed from the Facility pursuant to Section 3.6(a).

(c) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 3.6(a) shall not entitle the Lessee to any abatement or reduction in the Rental Payments payable by the Lessee under this Agreement or under any other Project Document.

(d) Notwithstanding anything to the contrary in this Section 3.6, the Lessee shall not be required to replace any Existing Facility Property that performed a function that has become obsolete or is otherwise no longer necessary or desirable in connection with the use and operation of the Facility.

Section 3.7. Implementation of Agency's Interest in New Property.

(a) In the event of any Capital Improvements or substitution or replacement of property pursuant to Section 3.5 or 3.6, the Lessee shall deliver or cause to be delivered to the Agency any necessary documents conveying to the Agency a leasehold estate in any property installed or placed upon the Facility pursuant to such Section and subjecting such Capital Improvements or substitute or replacement property to the Deed, the Company Lease and this Agreement.

(b) The Lessee agrees to pay all costs and expenses (including reasonable counsel fees) incurred by the Agency in subjecting to, or releasing from, the Company Lease and this Agreement any property installed or placed on, or removed from, the Facility pursuant to Section 3.5 or 3.6.

(c) Reference is made to Section 8.15(d) and (e) pursuant to which the Lessee has agreed to furnish a report or certificate to the Agency of any action taken by the Lessee pursuant to the provisions of Section 3.5 or 3.6.

Section 3.8. Title Report, Municipal Department Searches and Survey. On or prior to the Commencement Date, and again on the Additional Parcel Inclusion Date, the Lessee will obtain and deliver to the Agency (x) a title report (in form and substance reasonably acceptable to the Agency) reflecting all matters of record with respect to the Land and the Existing Improvements, (y) a full set of municipal department search results showing only Permitted Encumbrances, and (z) a current or updated survey of each of the Land and the Existing Improvements certified to the Agency.

Section 3.9. Additional Parcel. The Lessee covenants and agrees that, pursuant to the Additional Parcel Agreement of Covenants and Restrictions, it shall acquire title to the Additional Parcel. Upon the Additional Parcel Inclusion Date, (x) the instrument of conveyance shall be substantially in the form attached hereto as Exhibit M, (y) this Agreement

shall be deemed to include the Additional Parcel within the Land subject to this Agreement, without any further action required from the Agency or the Lessee and (z) the Lessee and the Agency shall execute new memoranda of the Company Lease and this Agreement showing the Additional Parcel as part of the respective leasehold estates, and the Lessee shall at its sole cost and expense record each of the same at the appropriate Office of the City Register of The City of New York.

Section 3.10. Condominium Conversion. The parties acknowledge that the Lessee may elect to subject the Facility to a condominium regime (a "**Condominium Conversion**" comprising one or more units, each a "**Unit**"). Notwithstanding anything to the contrary herein, in connection with the Lessee's exercise of a Condominium Conversion, promptly upon the request of the Lessee, and at the sole cost and expense of the Lessee, and with the prior written approval of the Agency if the Agency Lease Leasehold Estate shall then be in effect, the Lessee and the Agency shall amend, modify and/or restate the Project Documents so that (i) such Project Documents continue to encumber the Facility, including each Unit, in the manner contemplated by this Agreement and the other Project Documents; and (ii) a new Agreement, Company Lease and other Project Documents be executed in substantially the same form as this Agreement, the Company Lease and the other Project Documents, except that such agreement shall then spread or apply to and encumber each of the Units and the ownership thereof. Promptly upon the request of the Lessee, and with the prior written approval of the Agency if the Agency Lease Leasehold Estate shall then be in effect, the Agency shall reasonably cooperate with the Lessee at the sole cost and expense of the Lessee in connection with the execution and delivery of such amendments and/or restatements of the Project Documents or delivery of additional documents or instruments that the Lessee or the Mortgagee may reasonably request in connection with such Condominium Conversion, including without limitation, spreader agreements and amended and restated Project Documents (collectively, the "**Additional Project Documents**"), provided that such Condominium Conversion or Additional Project Documents (i) do not increase the obligations or reduce the rights of the Agency under the Project Documents, (ii) do not decrease the obligations or increase the rights of the Lessee under the Project Documents, and (iii) are in a form reasonably acceptable to the Agency. Nothing contained in this Section 3.10 shall be deemed to waive, modify, release or amend any obligation, covenant or agreement of the Lessee set forth in the Project Documents prior to any such Condominium Conversion.

ARTICLE IV

LEASE OF FACILITY AND RENTAL PROVISIONS

Section 4.1. Lease of the Facility. The Agency hereby subleases the Facility to the Lessee, and the Lessee hereby subleases the Facility from the Agency, for and during the Term herein specified and subject to the terms and conditions herein set forth. The Agency hereby delivers to the Lessee, and the Lessee hereby accepts, sole and exclusive possession of the Facility.

Section 4.2. Duration of Term; Nature of Agreement. (a) The term of this Agreement (the "**Term**") shall commence on the Commencement Date and shall expire at 11:58 p.m. (New York City time) on the earlier of the Expiration Date or the Termination Date, if any. The Term shall neither expire nor terminate upon the termination of the Company Lease or the Agency Lease Leasehold Estate.

(b) The parties to this Agreement acknowledge and agree that this Agreement (y) creates and grants a subleasehold estate under the Facility in the Lessee, AND (z) constitutes a separate contractual agreement between the Agency and the Lessee. In the absence of an express written agreement executed by the Agency and the Lessee, the expiration or early termination of the Agency Lease Leasehold Estate shall not effect a termination of this Agreement, nor impair (i) the payments, obligations, covenants and agreements of the Lessee under this Agreement, or (ii) the rights and remedies of the Agency to enforce this Agreement.

Section 4.3. Rental Provisions.

(a) The Lessee shall pay Base Rent to the Agency, without demand or notice, on the Commencement Date in the amount of $1.00 (receipt of which is acknowledged by the Agency), which shall constitute the entire amount of Base Rent payable hereunder.

(b) Throughout the Term, the Lessee shall pay to the Agency any additional amounts required to be paid by the Lessee to or for the account of the Agency hereunder, and any such additional amounts shall be paid as, and shall represent payment of, Additional Rent.

(c) In the event the Lessee should fail to make or cause to be made any Rental Payment, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid has been paid in full, together with interest thereon from the date due at the applicable interest rate stated in this Agreement where so provided, or if not so provided, at twelve percent (12%) per annum, compounded daily.

Section 4.4. Rental Payments Payable Absolutely Net. The obligation of the Lessee to pay Rental Payments shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement shall yield, net, to the Agency, the Rental Payments provided for herein, and all costs, expenses and charges of any kind and nature relating to the Facility, arising or becoming due and payable during or after the Term, shall be paid by the Lessee and the Indemnified Parties shall be indemnified by the Lessee for, and the Lessee shall hold the Indemnified Parties harmless from, any such costs, expenses and charges.

Section 4.5. Nature of Lessee's Obligation Unconditional. The Lessee's obligations under this Agreement to pay Rental Payments shall be absolute, unconditional and general obligations, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency or any other Person. Such obligations of the Lessee shall arise whether or not the Project has been completed as provided in this Agreement and whether or not any Mortgagee or Mezzanine Lender shall be honoring its obligations under the related financing documents. The Lessee will not suspend or discontinue payment of any Rental Payment due and payable hereunder or terminate this Agreement (other than such termination as is provided for hereunder) or suspend the performance or observance of any covenant or agreement required on the part of the Lessee hereunder for any cause whatsoever, and the Lessee waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Lessee under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the Rental Payments hereunder.

Section 4.6. Advances by Agency. In the event the Lessee fails to make any payment or to perform or to observe any obligation required of it under this Agreement, the Agency, after first notifying the Lessee in writing of any such failure on its part (except that no prior notification of the Lessee shall be required in the event of an emergency condition that, in the reasonable judgment of the Agency, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Agreement or any other Project Document to which the Agency is a party, make such payment or otherwise cure any failure by the Lessee to perform and to observe its other obligations hereunder. All amounts so advanced therefor by the Agency shall become an additional obligation of the Lessee to the Agency, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum, compounded daily, from the date advanced, the Lessee will pay upon demand therefor by the Agency. Any remedy herein vested in the Agency for the collection of Rental Payments or other amounts due hereunder shall also be available to the Agency for the collection of all such amounts so advanced.

Section 4.7. No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR ITS TENANTS OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE LESSEE WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. THE LESSEE IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE LESSEE AND ITS TENANTS. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH

MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

ARTICLE V

AGENCY FINANCIAL ASSISTANCE (SALES TAX EXEMPTION AND MORTGAGE RECORDING TAX EXEMPTION); RECAPTURE OF PUBLIC BENEFITS

Section 5.1. No Exemption Based Upon Agency's Interest. It is recognized that under the provisions of the Act, the Agency is required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. In the event the Agency's interest in the Facility shall exempt the Facility or any portion thereof from the imposition of real estate taxes, then, the Lessee shall not claim or assert an exemption from such real estate taxes by virtue of the Agency's interest in the Facility, and, subject to any Real Property Tax benefit programs for which the Lessee shall be approved, shall pay all Real Property Taxes.

Section 5.2. Sales Tax Exemption.

(a) Agency's Exempt Status. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of Sales and Use Taxes. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required. Notwithstanding the foregoing, the Agency makes no representation to the Lessee, any Agent or any third party that any Sales Tax Exemption is available under this Agreement.

(b) Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Lessee, subject to the terms and conditions of this Agreement, to act as its agent in connection with the Project for the purpose of effecting purchases and leases of Eligible Items so that such purchases and leases are exempt from the imposition of Sales and Use Taxes. The Agency's authorization with respect to such Sales Tax Exemption provided to the Lessee and its Agents pursuant to this Agreement and any Sales Tax Agent Authorization Letters issued hereunder shall be subject to the following limitations:

(i) The Sales Tax Exemption shall be effective only for a term commencing on the Commencement Date and expiring upon the earliest of (A) the termination of this Agreement, (B) Substantial Completion, (C) the Substantial Completion Outside Date, (D) a Reverter Event, or (E) the termination of the Sales Tax Exemption authorization pursuant to Section 9.2.

(ii) The Sales Tax Exemption authorization set forth herein shall automatically be suspended upon written notice to the Lessee that the Lessee is in default under this Agreement until such default is cured in accordance with the terms of this Agreement.

(iii) The Sales Tax Exemption authorization shall be subject to all of the terms, conditions and provisions of this Agreement.

(iv) The Sales Tax Exemption shall only be utilized for Eligible Items which shall be purchased, incorporated, completed or installed for use only by the Lessee for the Core and Shell of the Building (and not with any intention to sell, transfer or otherwise dispose of any such Eligible Item to a Person as shall not constitute the Lessee), it being the intention of the Agency and the Lessee that the sales and use tax exemption shall not be made available with respect to any Eligible Item unless such item is used solely by the Lessee at the Facility.

(v) The Sales Tax Exemption shall not be used for any Ineligible Item, nor used after the completion of the Core and Shell of the Building.

(vi) The Sales Tax Exemption shall not be used to benefit any person or entity, including any Tenant located at the Facility, other than the Lessee, without the prior written consent of the Agency.

(vii) By execution by the Lessee of this Agreement, the Lessee agrees to accept the terms hereof and represents and warrants to the Agency that the use of the Sales Tax Exemption by the Lessee or by any Agent is strictly for the purposes stated herein.

(viii) Upon the Termination Date, the Lessee and each Agent shall cease being agents of the Agency, and the Lessee shall immediately notify each Agent in writing of such termination and that the Sales Tax Agent Authorization Letter issued to any such Agent is likewise terminated and that the original executed Sales Tax Agent Authorization Letter must be returned to the Lessee so that the Lessee can return the same to the Agency.

(ix) The Lessee agrees that the aggregate amount of Sales Tax Savings realized by the Lessee and by each Agent in connection with the Project shall not exceed in the aggregate the Maximum Sales Tax Savings Amount.

(c) Procedures for Appointing Agents. If the Lessee desires to seek the appointment of a contractor, a subcontractor or other party to act as the Agency's agent (an "**Agent**") for the purpose of effecting purchases which are eligible for the Sales Tax Exemption pursuant to authority of this Agreement, it must complete the following steps:

(i) General Municipal Law Section 874(9) and Form ST-60 and the regulations relating thereto require that within thirty (30) days of the date that the Agency appoints a project operator or other person or entity to act as agent of the Agency for purposes of extending a sales or use tax exemption to such person or entity, the Agency must file a completed Form ST-60 with respect to such person or entity. Accordingly, for each Agent, the Lessee must complete and submit Form ST-60 to the Agency. The Agency requires Form ST-60 to be submitted electronically. Please download Form ST-60 via the internet by typing http://www.tax.ny.gov/pdf/current_forms/st/st60_fill_in.pdf into the address bar of your internet browser and saving the "fill-in" PDF of the form (using Adobe Acrobat). The downloaded form may then be completed electronically, saved and transmitted to the Agency by emailing it to Compliance@nycedc.com.

(ii) The appointment of each such Agent as an agent for the Agency shall be effective only upon execution by the Agency and the Agent of a Sales Tax Agent Authorization Letter in the form attached hereto as Exhibit H, following receipt of the completed Form ST-60 by the Agency. The determination whether or not to approve the appointment of an Agent shall be made by the Agency, in its sole discretion. If executed, a completed copy of the Sales Tax Agent Authorization Letter shall be sent to the Lessee within five (5) Business Days following such execution. The Lessee shall provide a copy of such executed Sales Tax Agent Authorization Letter together with a copy of this Agreement to the Agent within five (5) Business Days after receipt thereof by the Lessee.

(iii) The Lessee shall ensure that each Agent shall observe and comply with the terms and conditions of its Sales Tax Agent Authorization Letter and this Agreement, and upon the termination, expiration or cancellation of each Sales Tax Agent Authorization Letter, the Lessee shall retrieve and promptly surrender the same to the Agency.

(d) Form ST-60 Not an Exemption Certificate. The Lessee acknowledges that the executed Form ST-60 designating the Lessee or any Agent as an agent of the Agency shall not serve as a sales or use tax exemption certificate or document. Neither the Lessee nor any other Agent may tender a copy of the executed Form ST-60 to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY AN AGENT, PROJECT OPERATOR, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY EIGHT AND THIRTY SEVEN OF THE TAX LAW, THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

(e) Form ST-123 Requirement. As an agent of the Agency, the Lessee agrees that it will, and will cause each Agent to, present to each seller or vendor a completed and signed Form ST-123 for each contract, agreement, invoice, bill or purchase order entered into by the Lessee or by any Agent, as agent for the Agency, for construction of the Core and Shell. Form ST-123 requires that each seller or vendor accepting Form ST-123 identify the Project on each bill and invoice and invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Lessee, as Project operator of the Agency, was the purchaser. The Lessee shall retain copies of all such contracts, agreements, invoices, bill and purchase orders for a period of not less than six (6) years from the date thereof. For each Agent the Form ST-123 shall be completed as follows: (i) the "Project Information" section of Form ST-123 should be completed using the name and address of the Project as indicated on the Form ST-60 used to appoint the Agent; (ii) the date that the Agent was appointed as an agent should be completed using the date of the Agent's Sales Tax Agent Authorization Letter; and (iii) the "Exempt purchases" section of Form ST-123 should be completed by marking "X" in box "A" only.

(f) Form ST-340 Filing Requirement. The Lessee shall annually (currently, by each February 28th with respect to the prior calendar year) file a Form ST-340 with NYSDTF, in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of NYSDTF, of the value of all Sales Tax Savings claimed by the Lessee and each Agent in connection with the Project. Should the Lessee fail to comply with the foregoing requirement, the Lessee and each Agent shall immediately cease to be agents of the Agency in connection with the Project without any further action of the Agency and the Lessee shall immediately and without demand notify each Agent appointed by the Agency in connection with the Project of such termination.

(g) Sales Tax Registry Filing Requirement. No later than August 1st of each year, the Lessee shall file with the Agency a completed Sales Tax Registry, in the form attached hereto as Exhibit I, which accounts for all Sales Tax Savings realized by the Lessee and each Agent during the prior annual period ending on the preceding June 30th (or such shorter period beginning on the Commencement Date and ending on the preceding June 30th), unless the Termination Date occurred prior to such June 30th. Within ten (10) days after the Termination Date, the Lessee shall file with the Agency a completed Sales Tax Registry which accounts for all Sales Tax Savings realized by the Lessee and each Agent during the period from the preceding July 1st to the Termination Date.

(h) Special Provisions Relating to State Sales Tax Savings.

(i) The Lessee covenants and agrees to comply, and to cause each of its contractors, subcontractors, Agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3) (the "**Special Provisions**"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Agreement and the Special Provisions, the Special Provisions shall control.

(ii) The Lessee acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Lessee State Sales Tax Savings taken or purported to be taken by the Lessee, any Agent or any other person or entity acting on behalf of the Lessee to which Lessee is not entitled or which are in excess of the Maximum Sales Tax Exemption Amount or which are for property or services not authorized or taken in cases where the Lessee, any Agent or any other person or entity acting on behalf of the Lessee failed to comply with a material term or condition to use property or services in the manner required by this Agreement. The Lessee shall, and shall require each Agent and any other person or entity acting on behalf of the Lessee, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State Sales Tax Savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the "**Commissioner**") to assess and determine State Sales and Use Taxes due from the Lessee under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(iii) The Lessee is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to the Lessee or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(1) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of State Sales Tax Savings from the Lessee, any Agent or other person or entity, the Agency shall, within thirty (30) days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, State Sales Tax Savings from any Agent, the Lessee or other person or entity.

(2) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State Sales Tax Savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. The report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report required by this subdivision shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete the report required by General Municipal Law Section 875(3)(b) shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(iv) The foregoing requirements shall apply to any amounts of State Sales Tax Savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency or the Lessee, any Agent or other person or entity acting on behalf of the Lessee characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be State Sales and Use Taxes and the Agency shall receive any such

amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the State.

(i) Subject to the provisions of Section 5.2(h) hereof, in the event that the Lessee or any Agent shall utilize the Sales Tax Exemption in violation of the provisions of this Agreement or any Sales Tax Agent Authorization Letter, the Lessee shall promptly deliver notice of same to the Agency upon the Lessee's knowledge of such violation, and the Lessee shall, upon demand by the Agency pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Lessee or any Agent (as applicable).

(j) Upon request by the Agency with reasonable notice to the Lessee, the Lessee shall make available at reasonable times to the Agency and/or the Independent Accountant all such books, records, contracts, agreements, invoices, bills or purchase orders of the Lessee and any Agent, and require all appropriate officers and employees of the Lessee to respond to reasonable inquiries by the Agency and/or the Independent Accountant, as shall be necessary (y) to indicate in reasonable detail those costs for which the Lessee or any Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (z) to permit the Agency to determine any amounts owed by the Lessee under this Section 5.2.

Section 5.3. Mortgage Recording Tax Exemption.

(a) The following capitalized terms shall have the respective meanings specified below:

Exempt Mortgage shall mean the Initial Mortgage and the Initial Refinancing Mortgages, the recording of which is exempt, to the extent permitted by applicable law, from Mortgage Recording Taxes by reason of the Agency being a mortgagor thereunder.

Gap Mortgage shall mean, upon any refinancing of the outstanding principal balance of the indebtedness secured by an existing Exempt Mortgage, the separate mortgage that will initially secure the New Money.

Initial Refinancing Mortgages shall mean (i) any assignment, modification, extension, consolidation or amendment of the Initial Mortgage and (ii) a Gap Mortgage, in each case in connection with the initial permanent loan refinancing of the Initial Mortgage Loan.

Modified Exempt Mortgage shall mean an Exempt Mortgage as assigned, modified, extended, consolidated and/or otherwise amended.

Mortgage Recording Taxes shall mean those taxes imposed by the City and the State upon the recording of mortgages against real property in the City.

New Money shall mean, upon any refinancing of the outstanding principal balance of the indebtedness secured by an existing Exempt Mortgage, any additional loan proceeds that may be advanced as part of such mortgage refinancing.

The Lessee acknowledges that the Agency has exempted the payment of Mortgage Recording Taxes on the Initial Mortgage and, if (y) the Affiliate Guarantor shall not have been released from under the Guaranty Agreement pursuant to Section 5.7 thereof, and (z) the Agency Lease Leasehold Estate and the Company Lease shall not have been terminated in accordance with Article X, the Initial Refinancing Mortgages. Furthermore, other than in connection with the initial recordation of the Initial Mortgage and the Initial Refinancing Mortgages, the Lessee covenants and agrees that it will not claim, or allow any mortgagee to claim, any mortgage recording tax exemption, based on the status or involvement of the Agency in the Project or the Facility, in connection with the recordation of any mortgage or assignment of leases and rents. In the event the principal amount of the indebtedness secured by the Initial Refinancing Mortgages is in excess of $275,000,000, the Lessee shall, on or prior to the execution of the Initial Refinancing Mortgages, pay a fee to the Agency calculated as follows:

(i) the principal amount of the indebtedness secured by the Initial Refinancing Mortgages, less

(ii) $275,000,000,

(iii) the result of which is then multiplied by two and eight-tenths percent (2.8%), and

(iv) the result of which is then multiplied by six percent (6%).

By way of example, if the principal amount of the indebtedness secured by the Initial Refinancing Mortgages is $300,000,000, then the additional fee payable to the Agency would be $25,000,000 multiplied by 2.8% or $700,000, and $700,000 would then be multiplied by 6%, with a resultant fee of $42,000.

(b) The Lessee further acknowledges and agrees that the Agency is not obligated to exempt the payment of Mortgage Recording Taxes for the recording of any mortgage other than an Exempt Mortgage and only as provided in Section 5.3(a); nor, except as otherwise set forth herein and to the extent permitted by applicable law, is the Agency obligated to exempt the payment of Mortgage Recording Taxes on any extension, modification or other amendment to, or any assignment, consolidation or restatement of, an Exempt Mortgage.

(c) The Agency agrees that if, in connection with the refinancing of an Exempt Mortgage, the Lessee (i) causes the mortgagee of the Exempt Mortgage to assign the Exempt Mortgage to a new mortgagee, and/or (ii) causes the Exempt Mortgage to be modified, extended, consolidated or otherwise amended, the Agency will not object to any resulting continuation of the exemption of the Mortgage Recording Taxes originally applicable to the Exempt Mortgage; *provided, however*, that the following conditions are satisfied: (aa) the Modified Exempt Mortgage has provisions reasonably acceptable to the Agency (including, without limitation, the Agency Protection Protocol); and (bb) a Gap Mortgage is concurrently delivered to secure New Money, if any; and (cc) if applicable, at the time the refinancing is closed and the Modified Exempt Mortgage is executed and delivered, the Lessee shall pay the Mortgage Recording Taxes with respect to any Gap Mortgage to NYCDOF.

(d) If the Agency Lease Leasehold Estate terminates prior to the Expiration Date, the Lessee shall cause the Agency to be released as a party to the Exempt Mortgage, and, at the Lessee's sole cost and expense, cause such release to be recorded in the Office of the New York City Register of The City of New York.

Section 5.4. Recapture of Public Benefits. It is understood and agreed by the parties to this Agreement that the Agency is entering into this Agreement in order to provide financial assistance to the Lessee for the Project and to accomplish the public purposes of the Act. In consideration therefor, the Lessee hereby agrees as follows:

(a) The following capitalized terms shall have the respective meanings specified below:

Benefits shall mean, collectively, any exemption from any applicable Mortgage Recording Taxes, Sales and Use Taxes, and filing and recording fees.

Recapture Event shall mean the occurrence of a Reverter Event.

Recapture Period shall mean the period of time commencing on the Commencement Date, and expiring on the date which is the fifteenth anniversary of the Commencement Date.

(b) (i) If there shall occur a Recapture Event during the Recapture Period, the Lessee shall pay to the Agency as a return of Financial Assistance conferred by the Agency, the following amounts upon demand by the Agency: (y) all Benefits; and (z) interest described in Section 5.4(b)(ii).

(ii) The principal of the Benefits to be recaptured shall bear interest at a rate equal to the lesser of (x) the maximum amount of interest permitted by law, and (y) the statutory judgment rate, compounded monthly, commencing from the date that any amount of Benefit principal has accrued to the Lessee, through and including the date such principal is repaid in full; such that (y) Benefit principal comprising Mortgage Recording Taxes, or filing and recording fees, shall be deemed to have accrued to the Lessee on the Commencement Date, and (z) Benefit principal comprising Sales Tax Savings shall be deemed to have accrued to the Lessee on each date upon which such Sales Tax Saving shall have been received by reason of the use by the Lessee of the Sales Tax Exemption, provided, however, that if the Lessee cannot establish to the Agency's satisfaction the applicable date of receipt, the Agency shall deem the date of receipt (and therefore the date on which the Benefit principal accrued) to be the later of (1) the first day of the calendar year for which exemption was reported by the Lessee to the State Department of Taxation and Finance on Form ST-340 or (2) the Commencement Date, or, if the Lessee shall have failed to file Form ST-340, the Commencement Date. The "statutory judgment rate" shall be the statutory judgment rate in effect on the date of the Agency's demand.

(iii) Notwithstanding the foregoing, with respect to State Sales Tax Savings, the computation of the amount of State Sales Tax Savings to be recaptured shall equal the greater of the amount determined pursuant to this Section 5.4 and the amount due to the State pursuant to the Special Provisions.

(iv) For purposes of this Section 5.4, demand for payment by the Agency shall be made in accordance with the notice requirements of this Agreement and the due date for payment shall be not less than seven (7) Business Days from the date of the notice.

(c) The Lessee shall furnish the Agency and NYCEDC with written notification of any Recapture Event within ten (10) days of its occurrence and shall subsequently provide to the Agency in writing any additional information that the Agency may reasonably request in connection with any such Recapture Event.

(d) If, after the Agency Lease Leasehold Estate is terminated in accordance with Article X, a Transferee executes and delivers an instrument in writing (in form suitable for recording and acceptable in form and substance to the Agency) assuming the payments, obligations, covenants and agreements of the Lessee under the Company Lease and this Agreement from the Commencement Date and thereafter, and the Transferee is otherwise in compliance with the requirements of Section 8.9(b), and the Agency is made a direct beneficiary of such instrument, then the Agency shall look only to said Transferee in connection with the Agency's enforcement of this Agreement, and the Lessee shall be released from its payments, obligations, covenants and agreements under the Company Lease, this Agreement and the Guaranty Agreement, except that an assignment of this Agreement does not release the assigning party from its responsibility for performance of its duties under Section 8.2 of this Agreement for the period during which the assigning party was a party to this Agreement. The Lessee shall promptly deliver a copy of such written instrument to the Agency after its execution.

(e) The provisions of this Section 5.4 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1. Damage, Destruction and Condemnation. In the event that at any time during the Term the whole or part of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement to which the Lessee and those authorized to exercise such right are parties, or if the temporary use of the Facility shall be so taken by condemnation or agreement (a "**Loss Event**"):

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Facility,

(ii) there shall be no abatement, postponement or reduction in the Rental Payments payable by the Lessee under this Agreement or any other Project Document to which it is a party, and the Lessee hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect, and

(iii) the Lessee will promptly give written notice of such Loss Event to the Agency, generally describing the nature and extent thereof.

Section 6.2. Loss Proceeds. (a) The Agency and the Lessee shall cooperate and consult with each other in all matters pertaining to the settlement, compromise, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromise, arbitration or adjustment of any such claim or demand shall, as between the Agency and the Lessee, (y) be subject to the written approval of the Lessee, and (z) the Lessee shall be entitled to all of the Net Proceeds (the Agency hereby waiving any right to receive the same).

(b) The Lessee shall be entitled to the Net Proceeds of any insurance proceeds or condemnation award, compensation or damages attributable to the Facility, provided that nothing contained in this Agreement shall be deemed to modify the obligations of the Lessee pursuant to any Mortgage with respect to property insurance proceeds and condemnation awards. The obligations of the Lessee hereunder shall be independent of any such other obligations relating to insurance proceeds and condemnation awards.

Section 6.3. Obligation to Restore.

(a) In the event a Loss Event shall occur, the Lessee shall at its own cost and expense (except to the extent paid from the Net Proceeds), promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least substantially equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Lessee shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Agency; provided that if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Lessee as contemplated hereby and by the other

Project Documents, the Lessee may elect by notice to the Agency to terminate the Agency Lease Leasehold Estate and the Company Lease, subject to the continued survival and effectiveness of this Agreement.

(b) As soon as practicable but no later than one hundred and twenty (120) days after the occurrence of the Loss Event, the Lessee shall advise the Agency in writing of the action to be taken by the Lessee under this Section 6.3.

Section 6.4. Effect of Restoration of Facility.

(a) All rebuilding, replacements, repairs or restorations of the Facility in respect of or occasioned by a Loss Event shall:

(i) automatically be deemed a part of the Facility and shall be subject to the Company Lease, this Agreement and the other Project Documents,

(ii) be effected in order that such rebuilding, replacement, repair or restoration shall not change the nature of the Facility as the Approved Facility and a qualified "project" as defined in the Act,

(iii) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable Legal Requirements and be promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor,

(iv) restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, and to a state and condition that will permit the Lessee to use and operate the Facility as the Approved Facility that will qualify as a qualified "project" as defined in the Act, and

(v) be effected only if the Lessee shall have complied with Section 8.1(c).

(b) The date of completion of the rebuilding, replacement, repair or restoration of the Facility shall be evidenced to the Agency by a certificate of an Authorized Representative of the Lessee stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or arrangement for payment, reasonably satisfactory to the Agency, has been made (iii) that the Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that the Agency has a good and valid leasehold interest in all property constituting part of the Facility, and all property of the Facility is subject to the Company Lease, this Agreement and the other Project Documents, subject to Permitted Encumbrances, and (v) that the restored Facility is ready for occupancy, use and operation for the Approved Project Operations. Notwithstanding the foregoing, such certificate may state (x) that it is given without prejudice to any rights against third parties by the Lessee that exist at the date of such certificate or that may subsequently come into being, (y) that it is

given only for the purposes of this Section and (z) that no Person other than the Agency may benefit therefrom.

(c) The certificate delivered pursuant to Section 6.4(b) shall be accompanied by (i) a certificate of occupancy (either temporary or permanent, provided that if it is a temporary certificate of occupancy, the Lessee will proceed with due diligence to obtain a permanent certificate of occupancy and obtain renewals of such temporary certificate of occupancy as needed), if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; (ii) a certificate of an Authorized Representative of the Lessee that all costs of rebuilding, repair, restoration and reconstruction of the Facility have been paid in full, together with releases of mechanics' liens by all contractors and materialmen who supplied work, labor, services, materials or supplies in connection with the rebuilding, repair, restoration and reconstruction of the Facility (or, to the extent that any such costs shall be the subject of a bona fide dispute, evidence to the Agency that such costs have been appropriately bonded or that the Lessee shall have posted a surety or security at least equal to the amount of such costs); and (iii) a search prepared by a title company, or other evidence satisfactory to the Agency, indicating that there has not been filed with respect to the Facility any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility and that there exist no encumbrances (other than Permitted Encumbrances) or those encumbrances consented to by the Agency.

ARTICLE VII

COVENANT OF THE AGENCY

Section 7.1. Quiet Enjoyment. The Agency covenants and agrees that, subject to the terms and provisions of the Permitted Encumbrances, including, without limitation, the Deed (and any other impairments of title), so long as the Lessee shall pay the Rental Payments payable by it under this Agreement and shall duly observe all the covenants, stipulations and agreements herein contained obligatory upon it and an Event of Default shall not exist hereunder, the Agency shall take no action to disturb the peaceful, quiet and undisputed possession of the Facility by the Lessee under the Agency Lease Leasehold Estate, and the Agency (at the sole cost and expense of the Lessee) shall from time to time take all necessary action to that end.

ARTICLE VIII

COVENANTS OF THE LESSEE

Section 8.1. Insurance.

(a) Definitions. The following capitalized terms shall have the respective meanings specified below:

Certificate means an ACORD certificate evidencing insurance.

CGL means commercial general liability insurance.

CM means a construction manager providing construction management services in connection with any Construction.

Construction means any construction, reconstruction, restoration, renovation, alteration and/or repair on, in, at or about the Facility performed by or on behalf of the Lessee (other than interior improvements, fit-out or any other work performed by or on behalf of Tenants).

Construction Required Amount means, with respect to any Construction, an amount equal to twice the cost of such Construction, up to a total amount of $50,000,000.

Contractor(s) means, individually or collectively, a contractor or subcontractor providing materials and/or labor and/or other services in connection with any Construction, but not including a GC, CM or any architect or engineer providing professional services.

GC means any general contractor providing general contracting services in connection with any Construction.

Initial Construction means the initial construction of the Facility performed by or on behalf of the Lessee (other than interior improvements, fit-out or any other work performed by or on behalf of Tenants) including the Project Work or any other construction, reconstruction, restoration, alteration and/or repair required under this Agreement in connection with the Facility.

Insured means the Lessee.

Insurer means any entity writing or issuing a Policy.

ISO means the Insurance Services Office or its successor.

ISO Form CG-0001 means the CGL form published by ISO as of the Commencement Date.

OCIP/CCIP means an owner-controlled or contractor-controlled insurance program consented to by the Agency, which consent shall not be unreasonably withheld so long

as the coverage provided under such owner-controlled or contractor-controlled insurance program meets the requirements of this Section 8.1. The Agency may consider the total number of projects being insured under an OCIP/CCIP in connection with consenting to such OCIP/CCIP.

Policy(ies) means, collectively or individually, the policies required to be obtained and maintained pursuant to Sections 8.1(b) and (c).

SIR means self-insured retention.

U/E means Umbrella or Excess Liability insurance.

Workers' Compensation means Workers' Compensation, disability and employer liability insurance.

(b) Required Insurance. Throughout the Term, except during periods of Construction, the Insured shall obtain and maintain for itself as a primary insured the following insurance:

(i) CGL with $1,000,000 minimum per occurrence and $2,000,000 minimum in the aggregate, per location aggregate, and on a per occurrence basis. This Policy shall contain coverage for contractual liability, premises operations, and products and completed operations.

(ii) U/E on terms consistent with CGL. The excess coverage provided under U/E shall be incremental to the CGL to achieve minimum required coverage of $150,000,000 per location and occurrence; such incremental coverage must also apply to auto liability (when such coverage applies; see Section 8.1(b)(iii)), whether auto liability coverage is provided by endorsement to the Insured's CGL or by a stand-alone policy.

(iii) Auto liability insurance with $1,000,000 combined single limit, which shall include coverage for uninsured or under-insured vehicles. If the Insured does not own any vehicles, the Insured shall obtain auto liability insurance in the foregoing amounts for hired and non-owned vehicles. Notwithstanding the foregoing, in the event that an Authorized Representative of the Lessee delivers a certificate to the Agency certifying that it neither owns, hires, rents nor uses a vehicle of any sort, the Agency shall deem such certification to satisfy the requirements of this subsection (iii).

(iv) Workers Compensation satisfying State statutory limits. Coverage for employer liability shall be in respect of any work or operations in, on or about the Facility.

(c) Required Insurance During Initial Construction and Periods of Construction. In connection with the Initial Construction or any Construction and throughout any period of the Initial Construction or Construction, the Lessee shall cause the following insurance requirements to be satisfied:

(i) Subject to Section 8.1(i), the Insured shall obtain and maintain for itself Policies in accordance with all requirements set forth in Section 8.1(b), except that CGL and U/E shall be in an aggregate minimum amount of $100,000,000 for the Initial Construction and the Construction Required Amount during any period of Construction, in each case, per project aggregate.

(ii) The Insured shall obtain and maintain for itself and all Contractors of every tier, as a primary insured, the following Policies:

(A) CGL and U/E in accordance with the requirements in Section 8.1(b), subject to the following modifications: (x) coverage shall be in an aggregate minimum amount of $100,000,000 for the Initial Construction and the Construction Required Amount during any period of Construction, in each case per project aggregate, and (y) completed operations coverage shall extend (or be extended) for an additional ten (10) years after completion of the Construction; and

(B) Workers' Compensation in accordance with the requirements in Section 8.1(b).

Each Contractor shall obtain and maintain for itself as a primary insured Auto Liability insurance in accordance with the requirements in Section 8.1(b).

(d) Required Policy Attributes. Except as the Agency shall expressly otherwise agree in writing in its sole and absolute discretion:

(i) The Lessee shall cause each Policy (other than Worker's Compensation insurance and auto liability insurance) to name the Agency as an additional insured on a primary and non-contributory basis as more particularly required in Section 8.1(f)(i).

(ii) No Policy shall have a deductible which is not fully funded in a dedicated irrevocable escrow account maintained with the Insurer, or otherwise secured in such account by an Insurer or surety in each case meeting the requirements of Section 8.1(e).

(iii) CGL shall not be subject to SIR.

(iv) CGL and Auto liability insurance shall be written on, respectively, ISO Form CG-0001 and ISO Form CA-0001, or on such other equivalent forms as may be reasonably acceptable to the Agency, but only if the substitute form being proposed as an equivalent is provided to the Agency sixty (60) days prior to the intended effective date.

(v) The Lessee acknowledges that the Agency is materially relying upon the content of ISO Form CG-0001 (or its equivalent if applicable) to implement the Agency's insurance requirements under this Section 8.1; accordingly, the Lessee agrees that non-standard exclusions and other modifications to ISO Form CG-0001 (or to its

equivalent if applicable) are prohibited under the terms and conditions of this Section 8.1. By way of example and not limitation, no Policy delivered hereunder shall limit (whether by exception, exclusion, endorsement, script or other modification) any of the following coverage attributes:

(A) contractual liability coverage insuring the contractual obligations of the Insured;

(B) employer's liability coverage;

(C) coverage for claims arising under New York Labor Law;

(D) the right of the Insured to name additional insureds including the Agency;

(E) the applicability of CGL coverage to the Agency as an additional insured in respect of liability arising out of any of the following claims: (x) claims against the Agency by employees of the Insured, or (y) claims against the Agency by any GC, CM, Contractor, architect or engineer or by the employees of any of the foregoing, or (z) claims against the Agency arising out of any work performed by a GC, CM, Contractor, architect or engineer.

(vi) U/E shall follow the form of CGL except that U/E may be broader.

(vii) The Policies for CGL and U/E shall each provide primary insurance and the issuing Insurer shall not have a right of contribution from any other insurance policy insuring the Agency.

(viii) In each Policy, the Insurer shall waive, as against any Person insured under such Policy (including the Agency as an additional insured), the following: (x) any right of subrogation, (y) any right to set-off or counterclaim against liability incurred by a primary insured or any additional insured, and (z) any other deduction, whether by attachment or otherwise, in respect of any liability incurred by any primary insured or additional insured.

(ix) The Agency shall not be liable for any insurance premium, commission or assessment under or in connection with any Policy.

(x) Policies shall not be cancellable without at least thirty (30) days' prior written notice to the Agency.

(e) Required Insurer Attributes. All Policies must be issued by Insurers satisfying the following requirements:

(i) Insurers shall have a minimum AM Best rating of A minus.

(ii) Each Insurer must be an authorized insurer in accordance with Section 107(a) of the New York State Insurance Law.

(iii) Insurers must be admitted in the State; provided, however, that if the Insured requests the Agency to accept a non-admitted Insurer, and if the Agency reasonably determines that for the kind of operations performed by the Insured an admitted Insurer is commercially unavailable to issue a Policy or is non-existent, then the Agency shall provide its written consent to a non-admitted Insurer. For purposes of this paragraph, an "admitted" Insurer means that the Insurer's rates and forms have been approved by the State Department of Financial Services and that the Insurer's obligations are entitled to be insured by the State's insurance guaranty fund.

(f) Required Evidence of Compliance. The Lessee shall deliver or cause to be delivered, throughout the Term, of evidence of all Policies required hereunder as set forth in this Section 8.1(f):

(i) All Policies. With respect to all Policies on which the Insured is to be a primary insured, the Insured shall deliver to the Agency a Certificate or Certificates evidencing all Policies required by this Section 8.1: (x) at the Commencement Date, (y) prior to the expiration or sooner termination of Policies, and (z) prior to the commencement of any Construction. If the Certificate in question evidences CGL or U/E, such Certificate shall name the Agency as an additional insured in the following manner:

New York City Industrial Development Agency is an additional insured on a primary and non-contributory basis for both CGL and Umbrella/Excess. The referenced CGL is written on ISO Form CG-0001 without modification to the contractual liability, employer's liability or waiver-of-subrogation provisions thereof, and contains no endorsement limiting or excluding coverage for claims arising under New York Labor Law, covering the following premises: 28-10 Queens Plaza South, Queens, New York;

(ii) CGL and U/E. With respect to CGL or U/E on which the Insured is to be a primary insured, the Insured shall additionally deliver to the Agency the following:

(A) Prior to the Commencement Date, the Insured shall deliver to the Agency certificates of insurance including a completed ACORD Form 855 Certificate, together with any applicable endorsements, evidencing the satisfaction of the requirements of this Section 8.1 to the Agency.

(B) Upon the expiration or sooner termination of any CGL or U/E, the Insured shall deliver to the Agency certificates of insurance including a completed ACORD Form 855 Certificate, and any applicable endorsements, evidencing the satisfaction of the requirements of this Section 8.1.

(C) Prior to the commencement of any Construction, the Insured shall deliver to the Agency certificates of insurance including a completed ACORD Form 855 Certificate, together with any applicable endorsements, evidencing the satisfaction of the requirements of this Section 8.1.

(iii) Insurance to be obtained by GCs and CMs. Prior to the commencement of any Construction that entails the services of a GC or CM, the Lessee shall provide to the Agency, in a form satisfactory to the Agency, evidence that the GC or CM (as the case may be) has obtained the Policies that it is required to obtain and maintain in accordance with Section 8.1(c).

(iv) Insurance to be obtained by Contractors. In connection with any Construction, the Lessee shall, upon the written request of the Agency, cause any or all Contractors to provide evidence satisfactory to the Agency, that such Contractors have obtained and maintain the Policies that they are required to obtain and maintain in accordance with the requirements of Section 8.1(c).

(g) Required Notices. (i) The Lessee shall immediately give the Agency notice of each occurrence that is reasonably probable to give rise to a claim by the Agency under the insurance required to be maintained by this Section 8.1. (ii) The Lessee shall in writing immediately notify the Agency of the cancellation of any Policy. (iii) In the event that any of the Policies pertain to and cover properties (other than the Facility) that are not disclosed in Section 8.1(h)(i) below, the Lessee shall in writing notify the Agency of such additional properties.

(h) Miscellaneous.

(i) The Lessee represents that the Policies pertain to and cover only the Facility.

(ii) In the event that any of the Policies pertain to and cover properties (other than the Facility) that are not set forth in sub-section "i" preceding, the Agency shall have the right to demand higher Policy amounts therefor provided that the incremental coverage demanded by the Agency is reasonably related to such additional or substitute properties and the operations carried out or to be carried out thereon.

(iii) If, in accordance with the terms and conditions of this Section 8.1, the Insured is required to obtain the Agency's consent, the Lessee shall request such consent in a writing provided to the Agency at least thirty (30) days in advance of the commencement of the effective period (or other event) to which the consent pertains.

(iv) Throughout the Term, delivery by the Insured of a Certificate evidencing auto liability insurance for hired and non-owned vehicles shall, unless otherwise stated by the Lessee to the contrary, constitute a representation and warranty from the Insured to the Agency that the Insured does not own vehicles.

(v) The Insured shall neither do nor omit to do any act, nor shall it suffer any act to be done, whereby any Policy would or might be terminated, suspended or impaired.

(vi) If, throughout the Term, insurance industry standards applicable to properties similar to the Facility and/or operations similar to the operations of the Lessee materially change; and if, as a consequence of such change, the requirements set forth in this Section 8.1 become inadequate in the reasonable judgment of the Agency for the purpose of protecting the Agency against third-party claims, then the Agency shall have the right to supplement and/or otherwise modify such requirements, provided, however, that such supplements or modifications shall be commercially reasonable.

(vii) Nothing contained in this Agreement shall be deemed to modify the obligations of the Lessee pursuant to any Mortgage with respect to property insurance or the application of proceeds thereof and said Mortgage. The obligations of the Lessee hereunder shall be independent of any such other obligations relating to insurance.

(viii) The Agency, in its sole discretion and without obtaining the consent of any Mortgagee, any Mezzanine Lender, the Lessee or the Affiliate Guarantor or any other party to the transactions contemplated by this Agreement, may waive particular requirements under this Section 8.1. Notwithstanding, the Lessee shall be estopped from claiming that the Agency has made any such waiver unless the Agency has executed and delivered a written instrument for the purpose of effectuating such waiver.

(ix) THE AGENCY DOES NOT REPRESENT THAT THE INSURANCE REQUIRED IN THIS SECTION 8.1, WHETHER AS TO SCOPE OR COVERAGE OR LIMIT, IS ADEQUATE OR SUFFICIENT TO PROTECT THE INSUREDS AND THEIR OPERATIONS AGAINST CLAIMS AND LIABILITY.

Section 8.2. Indemnity.

(a) The Lessee shall at all times indemnify, defend, protect and hold the Agency, and any director, member, officer, employee, servant, agent (excluding for this purpose the Lessee, which is not obligated hereby to indemnify its own employees, Affiliates or affiliated individuals) thereof and persons under the Agency's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses, including attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses (collectively, "**Claims**") of any kind for losses, damage, injury and liability (collectively, "**Liability**") of every kind and nature and however caused (except, with respect to any Indemnified Party, Liability arising from the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing on the Indemnification Commencement Date, and continuing throughout the Term, arising upon, about, or in any way connected with the Facility, the Project, or any of the transactions with respect thereto, including:

(i) the financing of the costs of the Facility or the Project,

(ii) the planning, design, acquisition, site preparation, Project Work, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, or any defects (whether latent or patent) in the Facility,

(iii) the maintenance, repair, replacement, restoration, rebuilding, construction, renovation, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof, including, without limitation, the execution, performance or enforcement of any Tenant Lease,

(iv) the execution and delivery by an Indemnified Party, the Lessee or any other Person of, or performance by an Indemnified Party, the Lessee or any other Person, as the case may be, of, any of their respective obligations under, this Agreement or any other Project Document, or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby, including, without limitation, any Tenant Lease,

(v) any damage or injury to the person or property of any Person in or on the premises of the Facility,

(vi) any imposition arising from, burden imposed by, violation of, or failure to comply with any Legal Requirement, including failure to comply with the requirements of the Zoning Resolution and related regulations, or

(vii) the presence, disposal, release, or threatened release of any Hazardous Substances that are on, from, or affecting the Facility; any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances; any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, and/or any violation of Legal Requirements, including demands of government authorities, or any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Substances.

(b) The Lessee releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable to the Lessee or its Affiliates for, any Claim or Liability arising from or incurred as a result of action taken or not taken by such Indemnified Party with respect to any of the matters set forth in Section 8.2(a) including any Claim or Liability arising from or incurred as a result of the negligence or gross negligence of such Indemnified Party, or at the direction of the Lessee or the Affiliate Guarantor with respect to any of such matters above referred to.

(c) An Indemnified Party shall promptly notify the Lessee in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee pursuant to this Section 8.2; such notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such

notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 8.2.

(d) Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee contained in this Section 8.2 shall be in addition to any and all other obligations and liabilities that the Lessee may have to any Indemnified Party in any other agreement or at common law, and shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

Section 8.3. Compensation and Expenses of the Agency and Agency Administrative and Project Fees.

(a) The Lessee shall pay the fees, costs and expenses of the Agency together with any fees and disbursements incurred by lawyers or other consultants in performing services for the Agency in connection with this Agreement or any other Project Document.

(b) On the Commencement Date, the Lessee shall pay to the Agency the following amounts: (i) the Initial Annual Administrative Fee, and (ii) the Project Fee.

(c) The Lessee further agrees to pay the Annual Administrative Fee to the Agency on each July 1 following the Commencement Date until the earlier of the Expiration Date or the Termination Date. In the event that the Lessee shall fail to pay the Annual Administrative Fee on the date due, the Agency shall have no obligation to deliver notice of such failure to the Lessee.

Section 8.4. Anti-Raiding Prohibition. If the Lessee shall, with respect to any proposed Tenant Lease, request the Agency to determine whether (i) such Tenant's location at the Facility is reasonably necessary to discourage such Tenant from removing its industrial or manufacturing plant or facility to a location outside of the State or (ii) such Tenant's location at the Facility is reasonably necessary to preserve such Tenant's competitive position in its industry or (iii) neither "(i)" or "(ii)" is the case, the Agency shall, upon receipt of such request, use its best efforts to make a determination within thirty (30) days and such determination shall be evidenced by a certificate of an Authorized Representative of the Agency. If requested by the Agency, the Lessee shall provide, or cause the proposed Tenant to provide, to the Agency such additional information as the Agency shall require to make such determination.

Section 8.5. Signage at Facility Site. Upon commencement of the Project Work at the Facility (including the commencement of any demolition and/or excavation), the Lessee shall erect on the Facility site, at its own cost and expense, within easy view of passing pedestrians and motorists, a large and readable sign with the following information upon it (hereinafter, the "**Sign**"):

In addition, the Sign shall satisfy the following requirements: (x) format and appearance generally shall be as stipulated by the Agency in writing or electronically; (y) the minimum size of the Sign shall be four (4) feet by eight (8) feet; and (z) the Sign shall have no other imprint upon it other than that of the Agency. The Sign shall remain in place at the Facility until the Project Completion Date. The Lessee may erect other signs in addition to the Sign.

Section 8.6. Environmental Matters.

(a) The Lessee for itself and its successors and assigns, hereby absolutely affirms the Hazardous Substances Waiver set forth in the Deed. The Lessee shall include in any and all future deeds for the Facility the Hazardous Substances Waiver as a covenant running with the land.

(b) The Lessee shall not cause or permit the Facility or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable Legal Requirements, nor shall the Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of the Lessee or any occupant or user of the Facility, a release of Hazardous Substances onto the Facility or onto any other property.

(c) The Lessee shall comply with, and require and enforce compliance by, all occupants and users of the Facility with all applicable Legal Requirements pertaining to Hazardous Substances, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all occupants and users of the Facility obtain and comply with, any and all approvals, registrations or permits required thereunder.

(d) The Lessee shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Substances, on, from, or affecting the Facility in accordance with all applicable Legal Requirements.

(e) The parties hereto agree that the reference in Section 2.2(o) to the Environmental Audit is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the Lessee's obligations to carry out and perform all of the covenants stated throughout this Section 8.6 and in Section 8.2.

Section 8.7. Employment Matters.

(a) Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Workforce Investment Act of

1998 (29 U.S.C. §2801) in which the Facility is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Lessee agrees, where practicable, to consider first, and cause each of its Affiliates at the Facility to consider first, persons eligible to participate in the Workforce Investment Act of 1998 (29 U.S.C. §2801) programs who shall be referred by administrative entities of service delivery areas created pursuant to such Workforce Investment Act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(b) Upon the Agency's written request, the Lessee shall provide to the Agency any employment information in the possession of the Lessee which is pertinent to the Lessee and the employees of the Lessee to enable the Agency and/or NYCEDC to comply with its reporting requirements required by City Charter §1301 and any other applicable laws, rules or regulations.

(c) The Lessee hereby authorizes any private or governmental entity, including The New York State Department of Labor ("**DOL**"), to release to the Agency and/or NYCEDC, and/or to the successors and assigns of either (collectively, the "**Information Recipients**"), any and all employment information under its control and pertinent to the Lessee and the Tenants and the employees of the Lessee and of the Tenants to enable the Agency and/or NYCEDC to comply with its reporting requirements required by City Charter §1301 and any other applicable laws, rules or regulations. In addition, upon the Agency's written request, the Lessee shall provide to the Agency any employment information in the possession of the Lessee (including any employment information with respect to the Tenants which the Lessee has received, it being agreed that, upon the Agency's written request therefor, the Lessee shall request any such information from the Tenants and shall use good faith efforts to cause the Tenants to deliver any such information to the Lessee), which in each case is pertinent to the Lessee and the Tenants and their respective employees, to enable the Agency and/or NYCEDC to comply with its reporting requirements required by New York City Local Law 48 of 2005 and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Lessee, or any information previously released as provided by all or any of the foregoing parties (collectively, "**Employment Information**") may be disclosed by the Information Recipients in connection with the administration of the programs of the Agency and/or NYCEDC, and/or the successors and assigns of either, and/or the City, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to City Charter §1301, (y) other reports required of the Agency, and (z) any other reports required by law. This authorization shall remain in effect throughout the Term.

(d) Upon the request of the Agency, the Lessee shall use commercially reasonable efforts to cooperate with the Agency in the development of programs for the employment and/or training of members of minority groups in connection with the construction of the Project Improvements and any Capital Improvement at the Facility.

(e) Nothing in this Section shall be construed to require the Lessee to violate any existing collective bargaining agreement with respect to hiring new employees.

Section 8.8. Non-Discrimination.

(a) At all times during the maintenance and operation of the Facility, the Lessee shall not discriminate nor permit any of its Affiliates to discriminate against any employee or applicant for employment in connection with the Project or the Facility because of race, color, creed, age, sex or national origin. The Lessee shall use commercially reasonable efforts to ensure that employees and applicants for employment with any Tenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessee shall furnish to the Agency all information reasonably required by the Agency pursuant to this Section and will cooperate with any reasonable request of the Agency for the purposes of investigation to ascertain compliance with this Section.

Section 8.9. Assignment, Conveyance, Transfer or Sublease.

(a) Prior to Substantial Completion and Stabilization, the Lessee shall not (i) assign or transfer this Agreement, (ii) effect a Conveyance, or (iii) effect or suffer to be effected any transaction which will result, directly or indirectly, in the Lessee being in violation of any of the Pre-Substantial Completion and Stabilization Transfer Restrictions, except (y) the Lessee may enter into bona fide arms-length Tenant Leases (subject to the conditions set forth in Section 8.9(g) below), and (z) a Mortgage Lender or Mezzanine Lender of the Lessee may exercise their bona fide remedies (including foreclosure or a deed-in-lieu of foreclosure) in connection with a Mortgage Loan or Mezzanine Loan, as applicable.

(b) On or after Substantial Completion and Stabilization, the Lessee shall not assign or transfer this Agreement or any other Project Document, or effect a Conveyance, except upon compliance with the following conditions:

(i) any assignee of this Agreement and/or any other Project Document or Transferee shall have assumed in writing (and shall have executed and delivered to the Agency an instrument in form for recording) and have agreed to keep and perform all of the terms of this Agreement, the Company Lease and each other Project Document on the part of the Lessee to be kept and performed, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State, and if such assignee or Transferee shall fail to comply with the foregoing requirements in this Section 8.9(b)(ii), then such assignment or Transfer shall be void *ab initio*; provided, however, the assignment of this Agreement does not release the assigning party from its responsibility for performance of its duties under Section 8.2 of this Agreement for the period during which the assigning party was a party to this Agreement (it being agreed

that following such assignment, (i) the assignor shall otherwise be released from its payments, obligations, covenants and agreements under the Company Lease, this Agreement and the Guaranty and (ii) the Agency shall confirm the same in writing upon request);

(ii) in the case of an assignment, Transfer or Conveyance, or a sublease of all or substantially all of the Facility, such assignment, Transfer, Conveyance or sublease shall in no way diminish or impair the Lessee's obligation to carry the insurance required under Section 8.1 and the Lessee shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be diminished or impaired by reason of such assignment, Transfer, Conveyance or sublease;

(iii) for either an assignment of this Agreement, Transfer or Conveyance or sublease of all or substantially all of the Facility (not including Tenant Leases):

(1) any assignee, Transferee or sublessee shall utilize the Facility as the Approved Facility and a qualified "project" within the meaning of the Act;

(2) such assignment, Transfer, Conveyance or sublease shall not violate any provision of this Agreement or any other Project Document;

(3) any such assignee, Transferee or sublessee shall deliver to the Agency the Required Disclosure Statement in form and substance satisfactory to the Agency;

(4) the Lessee shall furnish or cause to be furnished to the Agency a copy of any such assignment, Transfer, Conveyance or sublease in substantially final form at least ten (10) days prior to the date of execution thereof; and

(5) the assignee, Transferee or sublessee and the Principals thereof shall not:

(A) be in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency, NYCEDC or the City, unless such default or breach has been waived in writing by the Agency, NYCEDC or the City, as the case may be;

(B) have been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(C) have been convicted of a felony in the past ten (10) years;

(D) have received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(E) have received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.

(c) Upon the request of the Lessee, the Agency shall execute any amendments, modifications and/or restatements of this Agreement and the Company Lease as shall be reasonably required in connection with any assignment, Transfer, Conveyance or sublease. Any consent by the Agency to any act of assignment, Transfer or Conveyance or sublease of all or substantially all of the Facility shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Lessee, or the successors or assigns of the Lessee, to obtain from the Agency consent to any other or subsequent assignment, Transfer, Conveyance or sublease, or as modifying or limiting the rights of the Agency under the foregoing covenant by the Lessee.

(d) If all or substantially all of the Facility is sublet or occupied by any Person other than the Lessee, the Agency, in the event of the Lessee's default in the payment of Rental Payments hereunder may, and is hereby empowered to, collect Rental Payments from such sublessee during the continuance of any such Event of Default. In case of such events, the Agency may apply the net amount received by it to the Rental Payments herein provided, and no such collection shall be deemed a waiver of the covenants in this Section 8.9, or a release of the Lessee from the further performance of the covenants contained in this Agreement on the part of the Lessee.

(e) The Lessee covenants and agrees that it shall not, without providing prior notice to the Agency, amend, modify, terminate or assign, or suffer any amendment, modification, termination or assignment of any sublease of all or substantially all of the Facility entered into in accordance with this Section (not including Tenant Leases).

(f) For purposes of this Section 8.9, any license or other right of possession or occupancy granted by the Lessee with respect to all or substantially all the Facility (not including Tenant Leases) shall be deemed a sublease subject to the provisions of this Section 8.9.

(g) (i) The Lessee shall have the right to enter into Tenant Leases from time to time without the consent of the Agency, provided that the Lessee hereby agrees that each Tenant Lease (or a side letter or agreement executed by the parties to such Tenant Lease) shall contain:

(1) provisions requiring the Tenant to deliver to the Lessee, upon the Lessee's request, such information as the Lessee may need to enable the Lessee to submit to the Agency the subtenant information required herein, including the information described in Section 8.16;

(2) a representation from the Tenant stating either of the following: (A) that such Tenant's occupancy at the Facility will not result in the removal of an industrial or manufacturing plant or facility of such Tenant located outside of the City, but within the State, to the Facility or in the abandonment of one or more such industrial or manufacturing plants or facilities of such Tenant located outside of the City but within the State or (B) that such Tenant's location at the Facility is reasonably necessary to discourage such Tenant from removing its industrial or manufacturing plant or facility to a location outside of the State or is reasonably necessary to preserve such Tenant's competitive position in its industry;

(3) a representation from the Tenant stating that neither the Tenant, nor any Principals of the Tenant:

(A) is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency, NYCEDC or the City, unless such default or breach has been waived in writing by the Agency, NYCEDC or the City, as the case may be;

(B) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(C) has been convicted of a felony in the past ten (10) years;

(D) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(E) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum; and

(4) a covenant from the Tenant stating that at all times during the Tenant's occupancy of the Facility, the Tenant shall ensure that employees and applicants for employment with the Tenant are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

With respect to the foregoing representations required by Section 8.9(g)(i), each Tenant Lease shall include the defined terms set forth in this Agreement for each capitalized term used in such Tenant Lease.

(ii) Upon the Agency's request, the Lessee shall deliver within ten (10) Business Days to the Agency a copy of the current form of any Tenant Lease (which may be redacted to maintain the confidentiality of financial and other sensitive terms).

(iii) Nothing contained in this Section 8.9 shall be deemed to require the prior consent of the Agency for any amendment, modification or supplement to a Tenant Lease, provided that such Tenant Lease continues to include the provisions required under this Section 8.9.

(h) Notwithstanding anything to the contrary herein, the Lessee shall have the right, without the consent of the Agency, in connection with a bona fide arm's-length transaction, (A) to mortgage, pledge or otherwise hypothecate the Lessee's title to the Facility, and (B) to pledge the direct or indirect equity interests in the Lessee, in each case to a Mortgagee or Mezzanine Lender, but subject, in all cases, to the Agency Protection Protocol. Nothing herein shall restrict the right of a Mortgagee to foreclose on the Lessee's interest in the Facility or a Mezzanine Lender to foreclose on the equity interest in the Lessee, in connection with a bona fide arm's-length transaction, to subsequently assign such interests to a designee, provided the Agency receives notice of such foreclosure event as well as the identity and ownership of the designee.

Section 8.10. Retention of Title to or of Interest in Facility; Grant of Easements; Release of Portions of Facility.

(a) Neither the Lessee nor the Agency shall sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of its respective title to or leasehold estate in the Facility, including the Improvements, or any part of the Facility or interest therein during the Term, except as set forth in Sections 3.6, Article VI, 8.9, 8.20, 9.2 and 10.2 or in this Section, without the prior written consent of the other, and any purported disposition without such consent shall be void.

(b) The Lessee may, upon prior written notice to the Agency, so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of the Company Lease and this Agreement, as shall be necessary or convenient in the opinion of the Lessee for the operation or use of the Facility, or required by any utility company for its utility business, provided that, in each case, such rights of way or easements shall not adversely affect the use or operation of the Facility as the Approved Facility. The Agency agrees, at the sole cost and expense of the Lessee, to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement. Any such right of way, easement, permit or license shall be deemed a Permitted Encumbrance.

(c) So long as there exists no Event of Default hereunder, on and after the Project Completion Date, the Lessee may from time to time request in writing to the Agency the release of and removal from the leasehold estate of the Company Lease and of this Agreement of any unimproved part of the Land (on which none of the Improvements, including the buildings, structures, major appurtenances, fixtures or other property comprising the Facility, is situated) provided that such release and removal will not adversely affect the use or operation of the

Facility as the Approved Facility. Upon any such request by the Lessee, the Agency shall, at the sole cost and expense of the Lessee, execute and deliver any and all instruments necessary or appropriate to so release and remove such unimproved Land from the leasehold estates of the Company Lease and of this Agreement, subject to the following: (i) any liens, easements, encumbrances and reservations to which title to said property was subject on the Commencement Date or on the Additional Parcel Inclusion Date, as applicable; (ii) any liens, easements and encumbrances created at the request of the Lessee or to the creation or suffering of which the Lessee consented; (iii) any liens and encumbrances or reservations resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement or any other Project Document; (iv) Permitted Encumbrances (other than the liens of the Company Lease and of this Agreement); and (v) any liens for taxes or assessments not then delinquent; provided, however, no such release shall be effected unless there shall be delivered to the Agency a certificate of an Authorized Representative of the Lessee, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the Person signing such certificate, the unimproved Land and the release thereof so proposed to be made is not needed for the operation of the Facility, will not adversely affect the use or operation of the Facility as the Approved Facility and will not destroy the means of ingress thereto and egress therefrom.

(d) No conveyance or release effected under the provisions of this Section 8.10 shall entitle the Lessee to any abatement or diminution of the Rental Payments payable under Section 4.3 or any other payments required to be made by the Lessee under this Agreement or any other Project Document to which it shall be a party.

Section 8.11. Discharge of Liens.

(a) If any lien, encumbrance or charge is filed or asserted (including any lien for the performance of any labor or services or the furnishing of materials), other than a Permitted Encumbrance, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "**Liens**"), whether or not valid, is made against the Facility or any part thereof or the interest therein of the Agency, the Lessee or NYCEDC against any of the Rental Payments payable under the Company Lease or under this Agreement or the interest of the Agency, the Lessee or NYCEDC under the Company Lease or under this Agreement, other than Liens for Impositions not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 8.11(b), the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Agency and take all action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Facility.

(b) The Lessee may at its sole cost and expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (i) such proceeding shall

suspend the execution or enforcement of such Lien against the Facility or any part thereof or interest therein, or in the Company Lease or in this Agreement, of the Agency, the Lessee or NYCEDC or against any of the Rental Payments payable under the Company Lease or under this Agreement, (ii) neither the Facility nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (iii) neither the Lessee nor NYCEDC nor the Agency would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Lessee shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency.

Section 8.12. Recording and Filing. This Agreement, as originally executed, or a memorandum hereof, shall be recorded by the Lessee at its sole cost and expense in the appropriate office of the Register of The City of New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

Section 8.13. No Further Encumbrances Permitted. Except as expressly permitted herein, the Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Agency, the Lessee or NYCEDC in the Facility or the Company Lease or this Agreement, except for Permitted Encumbrances. Notwithstanding the foregoing, in no event shall the lien of any Mortgage (or of any assignment of leases and rents) include the rights of the Lessee under this Agreement or any rentals or other amounts paid or payable hereunder or thereunder.

Section 8.14. Automatically Deliverable Documents.

(a) The Lessee shall promptly notify the Agency of the occurrence of any Recapture Event or Event of Default, or any event that with notice and/or lapse of time would constitute an Event of Default or default under any Project Document. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Lessee and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Lessee shall state this fact on the notice.

(b) The Lessee shall promptly provide written notice to the Agency if any representation or warranty made by the Lessee pursuant to Section 2.2(w) would, if made on any date during the term of the Agreement and deemed made as of such date, be false, misleading or incorrect in any material respect.

(c) Within twenty (20) Business Days after receipt from the Agency of any subtenant survey and questionnaire pertaining to the Facility, the Lessee shall complete and execute such survey and questionnaire and return the same to the Agency.

(d) The Lessee shall deliver all insurance-related documents required by Sections 8.1(f) and 8.1(g).

(e) Within 120 days after the close of each Fiscal Year during which action was taken by the Lessee pursuant to Section 3.5, the Lessee shall deliver written notice of the Capital Improvement(s) to the Agency.

(f) Within fifteen (15) Business Days following:

(1) the Substantial Completion Date, the Lessee shall (x) file with the Agency a completed Sales Tax Registry which accounts for all Sales Tax Savings realized by the Lessee and each Agent during the period from the preceding July 1st to the Termination Date; and (y) deliver and surrender to the Agency each Sales Tax Agent Authorization Letter and all copies thereof for cancellation;

(2) the Construction Commencement Date, the Lessee shall deliver to the Agency a certificate of an Authorized Representative certifying that material excavation work at the Land shall have commenced;

(3) the Substantial Completion Date, the Lessee shall deliver to the Agency a certificate of an Authorized Representative certifying that the Building is Substantially Complete, which certificate shall be accompanied by those evidences of such Substantial Completion set forth within the definition of such term;

(4) Stabilization, the Lessee shall deliver to the Agency a certificate of an Authorized Representative certifying that Stabilization shall have occurred, together with copies of Tenant Leases and rent rolls supporting such certification;

(5) the Lessee Owner ceasing to be Controlled by TSCE, the Lessee ceasing to be Controlled by TSCE, any change in the stock capital, membership or partnership interest of the Lessee Owner, TSCE or the Lessee, or any change (including the admitting or excluding of a member or general partner) in the managing members or general partners of the Lessee Owner, TSCE or the Lessee, or in the interest of any such managing member or general partner, or any change to the accuracy or completeness of Exhibit D, the Lessee shall provide such information to the Agency together with all details thereof; and

(6) any violation known to the Lessee of any of the Pre-Substantial Completion and Stabilization Transfer Restrictions.

(g) Promptly following Substantial Completion, but no later than twenty (20) Business Days following the receipt of a temporary or permanent certificate of occupancy allowing for the occupancy by tenants of at least ninety percent (90%) of the floors in the Facility, the Lessee shall deliver to the Agency the certificate as to Project completion in substantially the form set forth in Exhibit G – "Form of Project Completion Certificate", together with all attachments required thereunder.

(h) Prior to the appointment of an Agent in connection with the use of the Sales Tax Agent Authorization Letter as provided in Section 5.2(e), the Lessee shall submit Form ST-60 electronically to the Agency as provided therein.

(i) If the Lessee shall request the consent of the Agency to any action to be taken under Section 8.9, the Lessee shall submit such request to the Agency in the form prescribed by the Agency.

(j) No later than August 1st of each year, the Lessee shall file with the Agency a completed Sales Tax Registry which accounts for all Sales Tax Savings realized by the Lessee and each Agent during the prior annual ending on the preceding June 30th (or such shorter period beginning on the Commencement Date and ending on the preceding June 30th).

Section 8.15. Requested Documents. Upon request of the Agency, the Lessee shall deliver or cause to be delivered to the Agency within fifteen (15) Business Days of the date (or such longer period if reasonably required to satisfy such Agency request) so requested in writing:

(a) a copy of the most recent annual financial information of the Affiliate Guarantor and of the Lessee for such Fiscal Year, which shall include a statement of net assets and supplemental schedule of investments, together with a detailed schedule of all contingent liabilities, which financial information and related materials shall be prepared by the Affiliate Guarantor or the Lessee, as applicable, and certified by an appropriate officer of the Affiliate Guarantor or the Lessee, as applicable;

(b) a certificate of an Authorized Representative of the Lessee that the insurance the Lessee maintains complies with the provisions of Section 8.1, that such insurance has been in full force and effect at all times during the preceding Fiscal Year, and that duplicate copies of all policies or certificates thereof have been filed with the Agency and are in full force and effect and the evidence required by Section 8.1(f);

(c) copies of any (x) bills, invoices or other evidences of cost as shall have been incurred in connection with the Project Work, and (y) permits, authorizations and licenses from appropriate authorities relative to the occupancy, operation and use of the Facility by the Lessee (as opposed to by any Tenant);

(d) if no action was taken by the Lessee pursuant to Section 3.5 or no action involving the removal of property having a value in the aggregate exceeding $250,000 was taken by the Lessee pursuant to Section 3.6(a), a certificate of an Authorized Representative of the Lessee certifying to the fact that no such action was taken by the Lessee pursuant to such Section 3.5 or 3.6(a) during such preceding Fiscal Year;

(e) if action was taken by the Lessee pursuant to Section 3.5 or involving the removal of property having a value in the aggregate exceeding $250,000 pursuant to Section 3.6(a), a written report of an Authorized Representative of the Lessee summarizing the action taken by the Lessee and stating that, in his/her opinion, such action complied with the provisions of Section 3.5 or 3.6(a), as applicable;

(f) a certificate of an Authorized Representative of the Lessee as to whether or not, as of the close of the immediately preceding Fiscal Year, and at all times during such Fiscal Year, to the best knowledge of such Authorized Representative, the Lessee was in compliance with all the provisions that relate to the Lessee in this Agreement and in any other

Project Document to which it shall be a party, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Lessee with respect thereto;

(g) upon twenty (20) days prior request by the Agency, a certificate of an Authorized Representative of the Lessee either stating that to the knowledge of such Authorized Representative after due inquiry there is no default under or breach of any of the terms hereof that, with the passage of time or the giving of notice or both, would constitute an Event of Default hereunder, exists or specifying each such default or breach of which such Authorized Representative has knowledge;

(h) employment information requested by the Agency pursuant to Section 8.7(b); and

(i) information regarding non-discrimination requested by the Agency pursuant to Section 8.8.

Section 8.16. Periodic Reporting Information for the Agency.

(a) The Lessee shall not assert as a defense to any failure of the Lessee to deliver to the Agency any reports specified in this Section 8.16 that the Lessee shall not have timely received any of the forms from or on behalf of the Agency unless, (i) the Lessee shall have requested in writing such form from the Agency not more than thirty (30) Business Days nor less than fifteen (15) Business Days prior to the date due, and (ii) the Lessee shall not have received such form from the Agency at least five (5) Business Days thereafter. For purposes of this Section 8.16, the Lessee shall be deemed to have "received" any such form if it shall have been directed by the Agency to a website at which such form shall be available. In the event the Agency, in its sole discretion, elects to replace one or more of the reports required by this Agreement with an electronic or digital reporting system, the Lessee shall make its reports pursuant to such system.

(b) Annually, by August 1 of each year, commencing on the August 1 immediately following the Commencement Date, until the termination of this Agreement, the Lessee shall submit to the Agency the Annual Employment and Benefits Report with respect to the Lessee in a form approved by the Agency relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, in the form prescribed by the Agency, certified as to accuracy by an Authorized Representative of the Lessee. Upon termination of this Agreement, the Lessee shall submit to the Agency the Annual Employment and Benefits Report with respect to the Lessee relating to the period commencing the date of the last such Report submitted to the Agency and ending on the last payroll date of the preceding month in the form prescribed by the Agency, certified as to accuracy by the Lessee. Nothing herein shall be construed as requiring the Lessee or any Tenant to maintain a minimum number of employees on its respective payroll.

(c) If and for so long as the same shall be required by law, the Lessee shall annually (currently, by each February 28 with respect to the prior calendar year) file a statement with the New York State Department of Taxation and Finance, on a form and in a manner and consistent with such regulations as is or may be prescribed by the Commissioner of the New York State Department of Taxation and Finance (Form ST-340 or any successor or additional mandated form), of the value of Sales Tax Savings claimed by the Lessee and all Agents in connection with the Project and the Facility as required by Section 874(8) of the New York State General Municipal Law (as the same may be amended from time to time), under the authority granted pursuant to this Agreement. The Lessee shall furnish a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. Should the Lessee fail to comply with the foregoing requirement, the Lessee shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties, each of the Lessee and any Agent shall be deemed to have automatically lost its authority as agent of the Agency to purchase and/or lease Eligible Items in the Agency's behalf, and shall desist immediately from all such activity, and shall immediately and without demand return to the Agency any Sales Tax Agent Authorization Letter in the possession of any Agent. Nothing herein shall be construed as a representation by the Agency that any property acquired as part of the Project is or shall be exempt from Sales and Use Taxes under the laws of the State. To the extent that the Lessee and any Agent shall have received Sales Tax Savings, the Lessee agrees to include information with respect thereto in its Sales Tax Exemption Report required to be filed pursuant to Section 8.16(e).

(d) If there shall have been a Tenant, other than the Lessee, with respect to all or part of the Facility, at any time during the immediately preceding calendar year, the Lessee shall file with the Agency by the next following February 1, a certificate of an Authorized Representative of the Lessee with respect to all tenancies in effect at the Facility, in the form prescribed by the Agency.

(e) If the Sales Tax Exemption shall have been in effect at any time during the twelve-month period terminating on the immediately preceding June 30, the Lessee shall file with the Agency by the next following August 1, a certificate of an Authorized Representative of the Lessee with respect to Sales Tax Savings with respect to such twelve-month period, in the form prescribed by the Agency.

(f) If there shall have been a Tenant, other than the Lessee, with respect to all or part of the Facility, at any time during the twelve-month period terminating on the immediately preceding June 30, the Lessee shall deliver to the Agency by the next following August 1, a completed Subtenant's Employment and Benefits Report with respect to such twelve-month period, in the form prescribed by the Agency.

(g) If the Lessee shall have had the benefit of a Business Incentive Rate at any time during the twelve-month period terminating on the immediately preceding June 30, the Lessee shall deliver to the Agency by the next following August 1, a completed report required by the Agency in connection with the Business Incentive Rate program with respect to such twelve-month period, in the form prescribed by the Agency.

(h) The Lessee shall deliver to the Agency on August 1 of each year, commencing on the August 1 immediately following the Commencement Date, a completed location and contact information report in the form prescribed by the Agency.

Section 8.17. Taxes, Assessments and Charges. (a) The Lessee shall pay when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Facility, the Company Lease, this Agreement, any ownership estate or interest of the Agency, the Lessee or NYCEDC in the Facility or the Rental Payments or other amounts payable under the Company Lease or hereunder during the Term, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility, all of which are herein called "**Impositions**". The Lessee may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance. The Agency shall forward, as soon as practicable, to the Lessee any notice, bill or other statement received by the Agency concerning any Imposition.

(b) In the event the Facility is exempt from Impositions solely due to the Agency's leasehold estate in the Facility, the Lessee shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions that would have been imposed on the Facility if the Lessee were the owner of record of the Facility and the Agency had no leasehold estate in the Facility.

(c) The Lessee may at its sole cost and expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, if (i) such proceeding shall suspend the execution or enforcement of such Imposition against the Facility or any part thereof or interest therein, or in the Company Lease or in this Agreement, of the Agency, the Lessee or NYCEDC or against any of the Rental Payments payable under the Company Lease or under this Agreement, (ii) neither the Facility nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (iii) neither the Lessee nor NYCEDC nor the Agency would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (iv) the Lessee shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Agency.

Section 8.18. Compliance with Legal Requirements.

(a) The Lessee shall not occupy, use or operate the Facility, or allow the Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

(b) Throughout the Term and at its sole cost and expense, the Lessee shall promptly observe and comply with all applicable Legal Requirements (including, without limitation, as applicable, the LW Law, the Prevailing Wage Law, and the Earned Sick Time Act,

constituting Chapter 8 of Title 20 of the New York City Administrative Code), whether foreseen or unforeseen, ordinary or extraordinary, that shall now or at any time hereafter be binding upon or applicable to the Lessee, the Facility, any occupant (including any Tenant), user or operator of the Facility or any portion thereof, and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee will not, without the prior written consent of the Agency (which consent shall not be unreasonably withheld or delayed), initiate, join in or consent to any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Facility or any part thereof, in a manner or for a use contrary to the Deed.

(c) The Lessee may at its sole cost and expense contest in good faith the validity, existence or applicability of any of the matters described in Section 8.18(b) if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessee, NYCEDC or the Agency being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Lessee shall have furnished such security, if any, as may be reasonably requested by the Agency for failure to comply therewith.

Section 8.19. Operation as Approved Facility and as a "Project".

(a) The Lessee will not take any action, or suffer or permit any action, if such action would cause the Facility not to be the Approved Facility or a qualified "project" within the meaning of the Act.

(b) The Lessee will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility not to be the Approved Facility or a qualified "project" within the meaning of the Act.

(c) The Lessee will permit the Agency, or its duly authorized agent, upon reasonable notice, at all reasonable times, to enter the Facility, but solely for the purpose of assuring that the Lessee is operating the Facility, or is causing the Facility to be operated, as the Approved Facility and a qualified "project" within the meaning of the Act consistent with the Approved Project Operations and with the public purposes of the Agency.

Section 8.20. Restrictions on Dissolution and Merger.

(a) Except as expressly provided herein, the Lessee covenants and agrees that at all times during the Term, it will

(i) maintain its existence as a limited liability company organized and existing under the laws of the State of Delaware,

(ii) continue to be subject to service of process in the State,

(iii) continue to be organized under the laws of, or qualified to do business in, the State,

(iv) not, as transferor, liquidate, wind-up, dissolve, transfer or otherwise dispose of to another Entity all or substantially all of its property, business or assets ("**Transfer**") remaining after the Commencement Date, except as provided in Section 8.20(b),

(v) not, as transferee, take title to all or substantially all of the property, business or assets (also "**Transfer**") of and from another Entity, except as provided in Section 8.20(b),

(vi) not consolidate with or merge into another Entity or permit one or more Entities to consolidate with or merge into it ("**Merge**"), except as provided in Section 8.20(b), and

(vii) not change or permit the change of any Principal of the Lessee, or a change in the Control of the Lessee of any of the existing Principals, except in each case as provided in Section 8.20(d), and so long as the same would not result in a violation of any of the Pre-Substantial Completion and Stabilization Transfer Restrictions.

(b) After Substantial Completion and Stabilization, and without the prior written consent of the Agency, the Lessee may Merge or participate in a Transfer if the following conditions are satisfied on or prior to the Merger or Transfer, as applicable:

(i) when the Lessee is the surviving, resulting or transferee Entity,

(1) the Lessee shall have a net worth (as determined by an Independent Accountant in accordance with Acceptable Accounting Standards) at least equal to that of the Lessee immediately prior to such Merger or Transfer, and

(2) the Lessee shall deliver to the Agency a Required Disclosure Statement with respect to itself as surviving Entity in form and substance satisfactory to the Agency; or

(ii) when the Lessee is not the surviving, resulting or transferee Entity (the "**Successor Lessee**"),

(1) the predecessor Lessee (the "**Predecessor Lessee**") shall not have been in default under this Agreement or under any other Project Document (unless such default is cured by the transaction),

(2) the Successor Lessee shall be solvent and subject to service of process in the State and organized under the laws of the State, or under the laws of any other state of the United States and duly qualified to do business in the State,

(3) the Successor Lessee shall have assumed in writing all of the obligations of the Predecessor Lessee contained in this Agreement and in all

other Project Documents then in effect to which the Predecessor Lessee shall have been a party,

(4) the Successor Lessee shall have delivered to the Agency a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion,

(5) each Principal of the Successor Lessee shall have delivered to the Agency a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion,

(6) the Successor Lessee shall have delivered to the Agency, in form and substance reasonably acceptable to the Agency, an Opinion of Counsel to the effect that the Project Documents to which the Successor Lessee shall be a party will constitute the legal, valid and binding obligations of the Successor Lessee, and that such Project Documents are enforceable in accordance with their terms, and

(7) the Successor Lessee shall have delivered to the Agency, in form and substance reasonably acceptable to the Agency, an opinion of an Independent Accountant to the effect that the Successor Lessee has a net worth (as determined by an Independent Accountant in accordance with Acceptable Accounting Standards) after the Merger or Transfer at least equal to that of the Predecessor Lessee immediately prior to such Merger or Transfer.

(c) The Control of the Lessee shall not change prior to Substantial Completion and Stabilization without the prior written consent of the Agency other than in accordance with the Deed, except in connection with the exercise of bona fide arms'-length remedies by any Mortgage Lender or Mezzanine Lender of the Lessee (including, without limitation, foreclosure or a deed-in-lieu of foreclosure) in connection with a Mortgage Loan or Mezzanine Loan, as applicable.

(d) After Substantial Completion and Stabilization, if there is a change in Principals of the Lessee, or a change in the relative ownership and/or Control of the Lessee or any of the existing Principals, the Lessee shall deliver to the Agency prompt written notice thereof (including all details that would result in a change to Exhibit D) to the Agency together with a Required Disclosure Statement in form and substance acceptable to the Agency acting in its sole discretion.

Section 8.21. Notification as to Changes in Ownership. The Lessee represents and warrants to the Agency that set forth in Exhibit D hereto is an organizational chart detailing the current ownership structure of the Lessee, the Affiliate Guarantor and TSCE. The organizational chart further sets forth the relative percentages of ownership in the Lessee. The Lessee shall promptly deliver written notice to the Agency of any change in such chart. Upon request by the Agency, the Lessee shall deliver to the Agency a certificate of an Authorized Representative of the Lessee as to whether the information set forth in such chart continues to be

accurate and complete, and if not, the changes necessary to make such chart accurate and complete.

Section 8.22. Further Assurances. The Lessee and the Agency will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, at the sole cost and expense of the Lessee, as the Agency or the Lessee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder and under any other Project Document.

Section 8.23. HireNYC Program. The Lessee shall use its good faith efforts to achieve the hiring and workforce development goals of the HireNYC Program and shall perform the commitments of the HireNYC Program, all as set forth in Exhibit K. The Lessee agrees to be bound by each of the provisions of the HireNYC Program set forth in Exhibit K, including without limitation, the payment of any Program Assessments and other enforcement provisions set forth therein.

Section 8.24. Living Wage and Prevailing Wage.

(a) The Lessee acknowledges and agrees that it and its Site Affiliates have 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. The Lessee agrees to comply with all applicable requirements of the LW Law and the Prevailing Wage Law. The Lessee acknowledges that the terms and conditions set forth in this Section 8.24 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.

Asserted Cure has the meaning specified in Section 8.24(k)(i).

Asserted LW Violation has the meaning specified in Section 8.24(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 the Lessee, an Affiliate of the Lessee or any tenant, subtenant, leaseholder or subleaseholder of the Lessee or of an Affiliate of the Lessee to operate at the Facility for the primary purpose of selling goods or services to natural persons at the Facility.

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

Covered Employer means any of the following Persons: (a) the Lessee, (b) a Site Affiliate, (c) a tenant, subtenant, leaseholder or subleaseholder of the

Lessee or of an Affiliate of the Lessee that leases any portion of the Facility (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 Facility, 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 Facility, 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 case calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Facility if residential units comprise more than 75% of the total Facility area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Agency 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) if the Lessee is a "covered developer" under and as defined in the Prevailing Wage Law, 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 Facility and (c) the Commencement Date.

LW Event of Default means the satisfaction of the following two conditions: (a) two or more LW Violation Final Determinations shall have been imposed against the Lessee or its Site Affiliates in respect of the direct Site Employees of the Lessee or its Site Affiliates in any consecutive six year period during the LW Term and (b) the aggregate amount of Owed Monies and Owed Interest paid or payable by the Lessee in respect of such LW Violation Final Determinations is in excess of the LW Violation Threshold in effect as of the date of the second LW Violation Final Determination. For the avoidance of doubt, the Owed Monies and Owed Interest paid or payable by the Lessee in respect of the Site Employees of a Covered Counterparty that is not an Affiliate of the Lessee (pursuant to Section 8.24(k)(v)) shall not count for purposes of determining whether the conditions in clauses (a) and (b) of the preceding sentence have been satisfied.

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 later to occur of (a) the date on which the Lessee is no longer receiving financial assistance under this Agreement or (b) the date that is ten (10) years after the Facility commences operations.

LW Violation Final Determination has the meaning specified in Section 8.24(k)(i)(1), Section 8.24(k)(i)(2)(A) or Section 8.24(k)(i)(2)(B), as applicable.

LW Violation Initial Determination has the meaning specified in Section 8.24(k)(i)(2).

LW Violation Notice has the meaning specified in Section 8.24(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 the Lessee or a Site Affiliate in accordance with this Section 8.24 to the Lessee'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 the Lessee or its Site Affiliate failed to obtain a LW Agreement from a Covered Counterparty as required under Section 8.24(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 the Lessee that lease, occupy, operate or perform work at the Facility 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 Facility 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 Facility unless the primary work location or home base of such person is at the Facility (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 Facility 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.

Workplace Members has the meaning set forth in Section 8.24(l).

(c) During the LW Term, if and for so long as the Lessee is a Covered Employer, the Lessee shall pay each of its direct Site Employees no less than an LW. During the LW Term, the Lessee 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 the Lessee is a Covered Employer (or if and so long as a Site Affiliate is a Covered Employer, as applicable), the Lessee shall (or shall cause the applicable Site Affiliate to, as applicable), on or prior to the day on which each direct Site Employee of the Lessee or of a Site Affiliate begins work at the Facility, (i) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Section 8.24 in a conspicuous place at the Facility 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 8.24. 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 the Lessee is a Covered Employer (or if and for so long as a Site Affiliate is a Covered Employer, as applicable), the Lessee 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 8.24.

(f) During the LW Term, regardless of whether the Lessee is a Covered Employer, the Lessee shall cause each Covered Counterparty to execute an LW Agreement on or prior to the LW Agreement Delivery Date applicable to such Covered Counterparty. The Lessee shall deliver a copy of each Covered Counterparty's LW Agreement to the Agency, the DCA and the Comptroller at the notice address specified in Section 12.5 and promptly upon written request. The Lessee 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 the Lessee 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, the Lessee shall deliver written notice to the Agency, the DCA and the Comptroller within 30 days thereof.

(h) The Lessee hereby acknowledges and agrees that the City, the DCA and the Comptroller are each intended to be third party beneficiaries of the terms and provisions of this Section 8.24. The Lessee hereby acknowledges and agrees that the DCA, the Comptroller and the Agency shall each have the authority and power to enforce any and all provisions and remedies under this Section 8.24 in accordance with paragraph (k) below. The Lessee hereby agrees that the DCA, the Comptroller and the Agency may 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 the Lessee (or of any Site Affiliate) under this Section 8.24. Notwithstanding anything herein to the contrary, no default or Event of Default under this Agreement shall occur by reason of the Lessee's failure to perform or observe any obligation, covenant or agreement contained in this Section 8.24 unless and until an LW Event of Default shall have occurred. The agreements and acknowledgements of the Lessee set forth in this Section 8.24 may not be amended, modified or rescinded by the Lessee without the prior written consent of the Agency or the DCA.

(i) No later than 30 days after the Lessee's receipt of a written request from the Agency, the DCA and/or the Comptroller, the Lessee shall provide to the Agency, the DCA and the Comptroller (i) a certification stating that all of the direct Site Employees of the Lessee and its Site Affiliates are paid no less than an LW (if such obligation is applicable hereunder) and stating that the Lessee and its Site Affiliates are in compliance with this Section 8.24 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 the Lessee or of any Site Affiliate (if applicable), and/or (iv) any other documents or information reasonably related to the determination of whether the Lessee or any Site Affiliate is in compliance with their obligations under this Section 8.24.

(j) Annually, by August 1 of each year during the LW Term, the Lessee shall (i) submit to the Agency a written report in respect of employment, jobs and wages at the Facility as of June 30 of such year, in a form provided by the Agency to all projects generally, and (ii) submit to the Agency and the Comptroller the annual certification required under Section 6-134(f) of the LW Law (if applicable), and (iii) submit to the Agency 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 8.24 shall have been alleged by the Agency, the DCA and/or the Comptroller, then written notice will be provided to the Lessee for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Agency, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under Section 8.24(k)(ii), (iii), (iv), (v) and/or (vi) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon the Lessee's receipt of the LW Violation Notice, the Lessee 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 Agency, 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. The Lessee 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 Agency and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by the Lessee and deliver to the Lessee 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 the Lessee's receipt of the LW Violation Initial Determination, the Lessee 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, the Lessee'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 the Lessee'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. The Lessee 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 the Lessee or any Site Affiliate in respect of any direct Site Employees of the Lessee or of a Site Affiliate, at the direction of the Agency or the DCA (but not both), (A) the Lessee shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of the Lessee 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 the Lessee, the Lessee shall cure, or cause the cure of, such non-monetary violation.

(iii) For the second and any subsequent LW Violation Final Determinations imposed on the Lessee or any Site Affiliate in respect of any direct Site Employees of the Lessee or of a Site Affiliate, at the direction of the Agency or the DCA (but not both), (A) the Lessee shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of the Lessee or of a Site Affiliate to such direct Site Employees, and the Lessee 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 the Lessee, the Lessee shall cure, or cause the cure of, such non-monetary violation.

(iv) For the second and any subsequent LW Violation Final Determinations imposed on the Lessee or any Site Affiliate in respect of any direct Site Employees of the Lessee or of a Site Affiliate, if the aggregate amount of Owed Monies and Owed Interest paid or payable by the Lessee in respect of the direct Site Employees of the Lessee or of a Site Affiliate is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on the Lessee or any Site Affiliate, then in lieu of the remedies specified in subparagraph (iii) above and at the direction of the Agency or the DCA (but not both), the Lessee 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 the Lessee 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 the Lessee fails to obtain an LW Agreement from its Covered Counterparty in violation of paragraph (f) above, then at the discretion of the Agency or the DCA (but not both), the Lessee 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 the Lessee.

(vi) The Lessee 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 the Lessee 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 the Lessee may be subject to for a violation of this Section 8.24 are as set forth in this paragraph (k), and (B) in no event will the Specified Contract between the Lessee and a given Covered Counterparty be permitted to be terminated or rescinded by the Agency, the DCA or the Comptroller by virtue of violations by the Lessee or another Covered Counterparty.

(l) With respect to any Covered Employer whose primary business consists of providing office suites and shared office workplaces, together with certain office services (such as meeting facilities and services, administrative support, high-speed broadband connectivity, furniture and customary office equipment usage, and lounge areas), to members ("Workplace Members"), the provisions of this Section 8.24 as to the LW Law shall not apply to the Workplace Members of such Covered Employer, provided that (i) the space is not separately demised to such Workplace Members (with it being understood that the standard installation of partitions for individual Workplace Members in the ordinary course of the operation of a shared office workplace business shall not be deemed "separately demising" space) and (ii) no such Workplace Members shall have any property right or interest in any portion of the Facility (as opposed to the non-exclusive contractual right to occupy portions of the Facility).

(m) The terms and conditions set forth in this Section 8.24 shall survive the expiration or earlier termination of this Agreement.

ARTICLE IX

REMEDIES AND EVENTS OF DEFAULT

Section 9.1. Events of Default. Any one or more of the following events shall constitute an "**Event of Default**" hereunder:

(a) Failure of the Lessee to pay all Real Property Taxes in respect of the Facility as required by, and in accordance with, Section 5.1;

(b) Failure of the Lessee to pay any Rental Payment (except as set forth in Section 9.1(a)) within fifteen (15) days of the due date thereof;

(c) The occurrence of a Recapture Event;

(d) Failure of the Lessee to observe and perform any covenant or agreement on its part to be performed under Section 8.9 or 8.20, and continuance of such failure for a period of twenty (20) days after receipt by the Lessee of written notice specifying the nature of such default from the Agency;

(e) Failure of the Lessee to observe and perform any covenant or agreement on its part to be performed under Section 8.1, and continuance of such failure for a period of ten (10) days after receipt by the Lessee of written notice specifying the nature of such default from the Agency;

(f) Failure of the Lessee to observe and perform any covenant, condition or agreement on its part to be performed under Sections 4.6, 5.2, 5.3, 5.4, 8.2, 8.3, 8.8, 8.10, 8.13, 8.14, 8.15, 8.16 or 9.8, and continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nature of such failure from the Agency;

(g) Failure of the Lessee to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 9.1(a), (b), (c), (d), (e) or (f)) and (i) continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nature of such failure from the Agency, or (ii) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Lessee fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure;

(h) The Lessee or the Affiliate Guarantor shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take

any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(i) A proceeding or case shall be commenced, without the application or consent of the Lessee or the Affiliate Guarantor in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee or the Affiliate Guarantor or of all or any substantial part of its respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Lessee or the Affiliate Guarantor shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms "dissolution" or "liquidation" of the Lessee or the Affiliate Guarantor as used above shall not be construed to prohibit any action otherwise permitted by Section 8.20 or Section 3.6 of the Guaranty Agreement;

(j) Any representation or warranty made by the Lessee or the Affiliate Guarantor (i) in the application and related materials submitted to the Agency for approval of the Project or the transactions contemplated by this Agreement, (ii) herein or in any other Project Document, or (iii) by or on behalf of the Lessee or any other Person in any Required Disclosure Statement, or (iv) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made;

(k) The commencement of proceedings to appoint a receiver or to foreclose any mortgage lien on or security interest in the Facility;

(l) Any loss of the leasehold estate of the Agency in the Facility;

(m) An "Event of Default" under the Guaranty Agreement or under any other Permitted Encumbrance, including any Mortgage, shall occur and be continuing; or

(n) The occurrence of an LW Event of Default;

Section 9.2. Remedies on Default. (a) Whenever any Event of Default referred to in Section 9.1 shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

(i) The Agency may terminate the Company Lease and the Agency Lease Leasehold Estate by delivery of written notice to the Lessee specifying the date of termination (which in no event may be less than ten (10) days or more than sixty (60) days from the date of the notice) in which case, so long as the applicable Event of Default is continuing on the date of termination, the Company Lease and the Agency Lease Leasehold Estate shall cease and terminate (subject to the continuance of this Agreement and as provided in Section 4.2(b)), and convey all of the Agency's right, title and interest in the Facility to the Lessee, which the Agency may accomplish by executing and recording, at the sole cost and expense of the Lessee, lease termination agreements to

terminate the Company Lease and the Agency Lease Leasehold Estate (subject to the continuance of this Agreement and as provided in Section 4.2(b)), of record as required by law. The Lessee hereby waives delivery and acceptance of such termination agreements as a condition to their validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such termination agreements;

(ii) The Agency may bring an action for damages, injunction or specific performance;

(iii) The Agency may take whatever action at law or in equity as may appear necessary or desirable to collect the Rental Payments then due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement; or

(iv) The Agency may suspend or terminate its authorization hereunder and pursuant to any Sales Tax Agent Authorization Letter with respect to the Sales Tax Exemption.

(b) No action taken pursuant to this Section 9.2 (including termination of the Company Lease and the Agency Lease Leasehold Estate pursuant to this Section 9.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from the Lessee's continuing obligations under this Agreement, which continuing obligations shall survive the expiration or termination of the Company Lease and the Agency Lease Leasehold Estate.

Section 9.3. Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Lessee or any delay or omission on the part of the Agency in exercising any rights hereunder or under any other Project Document shall operate as a waiver.

Section 9.5. Effect on Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under any other Project Document on account of any Event of Default hereunder or thereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agency, then, and in every such case, the Agency shall be restored to its former position and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency shall continue as in effect prior to the commencement of such proceedings.

Section 9.6. Agreement to Pay Fees and Expenses of Attorneys and Other Consultants. In the event the Lessee should default under any of the provisions of this Agreement and the Agency should employ outside attorneys or other consultants or incur other out of pocket expenses for the collection of the Rental Payments payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained or contained in any other Project Document, the Lessee agrees that it will on demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys or other consultants and such other expenses so incurred.

Section 9.7. Certain Continuing Representations. If at any time during the Term, any representation or warranty made by the Lessee pursuant to Section 2.2(w) would, if made on any date during the Term and deemed made as of such date, be false, misleading or incorrect in any material respect, then, the Lessee shall be deemed to be in default under this Agreement unless either (i) the Lessee shall cure such default within thirty (30) days of the receipt of written notice of such default (or such longer period if reasonably required to cure the same and the Lessee is diligently pursuing such cure to completion), or (ii) the Agency shall, upon written request by the Lessee, either waive such default in writing or consent in writing to an exception to such representation or warranty so that such representation or warranty shall no longer be false, misleading or incorrect in a material respect.

Section 9.8. Late Delivery Fees.

(a) In the event the Lessee shall fail:

(i) to pay the Annual Administrative Fee on the date required under Section 8.3,

(ii) to file and/or deliver any of the documents required of the Lessee under Section 8.14 or Section 8.16 by the date therein stated (collectively, the "**Fixed Date Deliverables**"), or

(iii) to deliver to the Agency any of the documents as shall have been requested by the Agency of the Lessee under Section 8.15 by the date therein stated after so requested in writing (collectively, the "**Requested Document Deliverables**"),

then the Agency may charge the Lessee on a daily calendar basis commencing with the day immediately following the date on which the payment, filing or delivery was due (the "**Due Date**"), the Per Diem Late Fee.

(b) If the Agency shall deliver written notice (a "**Notification of Failure to Deliver**") to the Lessee of such failure to deliver on the Due Date the Annual Administrative Fee, a Fixed Date Deliverable and/or a Requested Document Deliverable, and such payment or document shall not be delivered to the Agency within ten (10) Business Days following delivery by the Agency to the Lessee of the Notification of Failure to Deliver, then, commencing from and including the eleventh (11th) Business Day following the delivery by the Agency to the Lessee of the Notification of Failure to Deliver, the Agency may charge the Lessee on a daily calendar basis the Per Diem Supplemental Late Fee in respect of each noticed failure which shall be in addition to, and be imposed concurrently with, the applicable Per Diem Late Fee.

(c) The Per Diem Late Fee and the Per Diem Supplemental Late Fee shall each, if charged by the Agency, (i) accrue until the Lessee delivers to the Agency the Annual Administrative Fee, the Fixed Date Deliverable(s) and/or the Requested Document Deliverable(s), as the case may be, and (ii) be incurred on a daily basis for each such Annual Administrative Fee, Fixed Date Deliverable and/or Requested Document Deliverable as shall not have been delivered to the Agency on the Due Date.

(d) No default on the part of the Lessee under Section 8.3, 8.14, 8.15 or 8.16 to deliver to the Agency an Annual Administrative Fee, a Fixed Date Deliverable or a Requested Document Deliverable shall be deemed cured unless the Lessee shall have delivered same to the Agency and paid to the Agency all accrued and unpaid Per Diem Fees in connection with the default.

ARTICLE X

TERMINATION

Section 10.1. Termination of Company Lease, the Agency Lease Leasehold Estate and this Agreement.

(a) On or after the Expiration Date, upon receipt of ten (10) days prior written notice from the Agency directing termination of the Company Lease, the Agency Lease Leasehold Estate and this Agreement, the Lessee shall take the actions described in Section 10.2(a) and terminate the Company Lease, the Agency Lease Leasehold Estate and this Agreement (subject to the survival of the Surviving Obligation).

(b) In the event the Lessee does not terminate the Company Lease, the Agency Lease Leasehold Estate and this Agreement (including taking all actions required to be taken by the Lessee pursuant to Section 10.2(a) within such ten (10) day period), then, commencing on the eleventh (11^{th}) day after transmittal of the notice directing termination as provided in Section 10.1(a), the Lessee shall, in addition to all other payment obligations due to the Agency hereunder, make rental payments to the Agency in the amount of the Per Diem Holdover Rental Amount until the Lessee shall have terminated the Company Lease, the Agency Lease Leasehold Estate and this Agreement in accordance with the provisions thereof and hereof.

(c) The Agency shall have the option to terminate the Company Lease and the Agency Lease Leasehold Estate at any time on or after the recording of the Initial Refinancing Mortgages, and the delivery of at least ten (10) days' prior written notice by the Agency to the Lessee directing termination of the Company Lease and of the Agency Lease Leasehold Estate. Upon such termination, the Agency and the Lessee, at the sole cost and expense of the Lessee, shall execute termination documents in recordable form (and all other necessary documents to discharge the Company Lease and the Agency Lease Leasehold Estate as a matter of record) confirming the termination of the Company Lease and of the Agency Lease Leasehold Estate.

(d) The Lessee shall have the option to terminate the Company Lease and the Agency Lease Leasehold Estate at any time on or after Stabilization, and the delivery of at least ten (10) days' prior written notice by the Lessee to the Agency. Upon such termination, the Lessee and the Agency, at the sole cost and expense of the Lessee, shall execute termination documents in recordable form (and all other necessary documents to discharge the Company Lease and the Agency Lease Leasehold Estate as a matter of record) confirming the termination of the Company Lease and the Agency Lease Leasehold Estate. **The Lessee shall have no option to terminate this Agreement.**

(e) Upon any termination of the Company Lease and the Agency Lease Leasehold Estate, the Lessee shall deliver or cause to be delivered to the Agency with respect to any Mortgage on the Facility to which the Agency shall be a party, a release of the Agency (in form and substance satisfactory to the Agency) from such Mortgage in recordable form executed by all other parties to such Mortgage.

Section 10.2. Actions Upon Termination.

(a) On the termination date of this Agreement as provided pursuant to Section 10.1, the Lessee shall:

(i) pay any and all Rental Payments and any other amounts due and payable under this Agreement (collectively, the "**Project Payments**") then due plus one dollar ($1.00),

(ii) perform all accrued obligations hereunder,

(iii) deliver or cause to be delivered to the Agency with respect to any Mortgage on the Facility to which the Agency shall remain a party, a release of the Agency (in form and substance satisfactory to the Agency) from such Mortgage in recordable form executed by all other parties to such Mortgage.

(b) On the date of the termination of this Agreement on or after the Expiration Date, the Agency will, upon the Lessee's performance of its obligations pursuant to Section 10.2(a), deliver or cause to be delivered to the Lessee:

(i) fully executed termination agreements and all other necessary documents in recordable form confirming the release of the Agency's right, title and interest in and to the Facility and terminating the Company Lease, the Agency Lease Leasehold Estate and this Agreement, subject to the survival of the Surviving Obligations, and

(ii) all necessary documents releasing all of the Agency's rights and interests in and to any rights of action (other than as against the Lessee or any insurer of the insurance policies under Section 8.1), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation awards, with respect to the Facility or any portion thereof.

(c) Upon termination of this Agreement on or after the Expiration Date, the Agency, upon the written request and at the sole cost and expense of the Lessee, shall execute such instruments as the Lessee may reasonably request or as may be necessary to discharge this Agreement, the Agency Lease Leasehold Estate and the Company Lease as documents of record with respect to the Facility, subject to Section 10.3.

Section 10.3. Survival of Lessee Obligations. Upon termination of this Agreement pursuant to Section 10.1 or 10.2, this Agreement and all obligations of the Lessee hereunder shall be terminated, except the Surviving Obligations of the Lessee shall survive such termination.

Section 10.4. Termination of this Agreement Upon a Reverter Event. If there shall occur a Reverter Event such that title to the Facility shall vest in NYCEDC, (y) the Agency and the Lessee shall take the actions described in Section 10.2, and (z) this Agreement shall terminate, except the Surviving Obligations of the Lessee shall survive such termination.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Force Majeure. In case by reason of *force majeure* either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than (i) the obligations of the Lessee to make the Rental Payments required under the terms hereof, or (ii) the obligations of the Lessee to comply with Sections 5.1, 5.2, 5.3, 5.4, 8.1 or 8.2), so far as they are affected by such *force majeure*, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "*force majeure*" shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, war, terrorism, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other act or event so long as such act or event is not reasonably foreseeable and is not reasonably within the control of the party claiming such inability. Notwithstanding anything to the contrary herein, in no event shall the Lessee's financial condition or inability to obtain financing constitute a *force majeure*. It is understood and agreed that the requirements that any *force majeure* shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be satisfied in the event of a strike or other industrial disturbance even though existing or impending strikes or other industrial disturbances could have been settled by the party claiming a *force majeure* hereunder by acceding to the demands of the opposing person or persons.

The Lessee shall promptly notify the Agency upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Lessee shall also promptly notify the Agency upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Agency, and the Agency shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Lessee.

Section 11.2. Priority. The Company Lease and this Agreement shall be subject and subordinate in lien (but not in contract) to any Mortgage and to the 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 against the Lessee or the Affiliate Guarantor.

Section 11.3. Amendments. This Agreement may only be amended by a written instrument executed and delivered by the parties hereto.

Section 11.4. Service of Process. The Lessee represents that it is subject to service of process in the State and covenants that it will remain so subject until all obligations,

covenants and agreements of the Lessee under this Agreement shall be satisfied and met. If for any reason the Lessee should cease to be so subject to service of process in the State, the Lessee hereby irrevocably consents to the service of all process, pleadings, notices or other papers in any judicial proceeding or action by designating and appointing the Secretary of State of the State of New York as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Lessee as a result of any of its obligations under this Agreement; provided, however, that the service of such process, pleadings, notices or other papers shall not constitute a condition to the Lessee's obligations hereunder.

For such time as any of the obligations, covenants and agreements of the Lessee under this Agreement remain unsatisfied, the Lessee's agent(s) designated in this Section 11.4 shall accept and acknowledge on the Lessee's behalf each service of process in any such suit, action or proceeding brought in any such court. The Lessee agrees and consents that each such service of process upon such agents and written notice of such service to the Lessee in the manner set forth in Section 11.5 shall be taken and held to be valid personal service upon the Lessee whether or not the Lessee shall then be doing, or at any time shall have done, business within the State and that each such service of process shall be of the same force and validity as if service were made upon the Lessee according to the laws governing the validity and requirements of such service in the State, and waives all claim of error by reason of any such service.

Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Lessee or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Lessee.

Section 11.5. Notices. 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 follows:

(1) if to the Agency, to

New York City Industrial Development Agency
110 William Street
New York, New York 10038
Attention: General Counsel (with a copy to the
Executive Director of the Agency at the
same address)

(2) if to NYCEDC, to

New York City Economic Development Corporation
110 William Street
New York, New York 10038
Attention: General Counsel (with a copy to
Senior Vice President for Real Estate Development
at the same address)

(3) if to the Lessee or to the Affiliate Guarantor, to

c/o Tishman Speyer
45 Rockefeller Plaza, 9th Floor
New York, New York 10111
Attention: Chief Financial Officer

with a copy to

c/o Tishman Speyer
45 Rockefeller Plaza, 9th Floor
New York, New York 10111
Attention: General Counsel

with a copy to

Fried, Frank Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004-1980
Attention: Tal Golomb, Esq.

(4) if to the Initial Mortgagee, to

Bank of the Ozarks
230 Park Avenue, Suite 922
New York, New York 10169
Attention: Real Estate Specialties Group

with a copy to

Reiner & Braunstein LLP
Times Square Tower, Suite 2506
Seven Times Square
New York, New York 10036
Attention: Elizabeth Gable, Esq.

(5) if to the DCA, to

Department of Consumer Affairs of The City of New York
42 Broadway
New York, New York 10004
Attention: Living Wage Division

(6) if to the Comptroller, to

Office of the Comptroller of The City of New York
One Centre Street
New York, New York 10007
Attention: Chief, Bureau of Labor Law

The Agency shall deliver to any Mortgagee (to the extent that the Lessee shall have delivered to the Agency the written notice address for such Mortgagee) a copy of any notice of default or notice of its intent to convey its leasehold interest in the Facility to the Lessee that the Agency delivers to the Lessee. Such copies shall be delivered at the same time and in the same manner as such notice is required to be given to the Lessee.

The Agency, NYCEDC, the Lessee, the Affiliate Guarantor, the DCA and the Comptroller may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted for overnight delivery by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder.

Section 11.6. Consent to Jurisdiction. The Lessee irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of this Agreement or any other Project Document, the Facility, the Project, the relationship between the Agency and the Lessee, the Lessee's ownership, use or occupancy of the Facility and/or any claim for injury or damages may be brought in the courts of record of the State in New York County or the United States District Court for the Southern District of New York; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; (iii) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (iv) waives and relinquishes any rights it might otherwise have (w) to move to dismiss on grounds of forum non conveniens, (x) to remove to any federal court other than the United States District Court for the Southern District of New York, and (y) to move for a change of venue to a New York State Court outside New York County.

If the Lessee commences any action against the Agency in a court located other than the courts of record of the State in New York County or the United States District Court for the Southern District of New York, the Lessee shall, upon request from the Agency, either consent to a transfer of the action or proceeding to a court of record of the State in New York

County or the United States District Court for the Southern District of New York, or, if the court where the action or proceeding is initially brought will not or cannot transfer the action, the Lessee shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of record of the State in New York County or the United States District Court for the Southern District of New York.

Section 11.7. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Agency and the Lessee relating to the Facility, other than the Company Lease or any other Project Document.

Section 11.8. Severability. If any one or more of the provisions of this Agreement 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 Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 11.9. Effective Date; Counterparts. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was delivered on the Commencement Date. This Agreement 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.

Section 11.10. Binding Effect. This Agreement shall inure to the benefit of the Agency, NYCEDC, the Lessee and the Indemnified Parties, and shall be binding upon the Agency and the Lessee and their respective successors and assigns.

Section 11.11. Third Party Beneficiaries. It is the intention of the parties hereto that nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto, NYCEDC and the Indemnified Parties.

Section 11.12. Law Governing. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without regard or giving effect to the principles of conflicts of laws thereof (except for Sections 5-1401 and 5-1402 of the New York General Obligations Law).

Section 11.13. Waiver of Trial by Jury. The Lessee does hereby expressly waive all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or any matters whatsoever arising out of or in any way connected with this Agreement, the Lessee's obligations hereunder, the Facility, the Project, the relationship between the Agency and the Lessee, the Lessee's ownership, use or occupancy of the Facility and/or any claim for injury or damages.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 11.14. Recourse Under This Agreement. (a) All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement 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 or any natural person executing this Agreement on behalf 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 Agreement 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 Lessee hereunder.

(b) None of the members, managers, trustees, directors, officers, employees, agents or servants of the Lessee, or of any Person who has at any time acted as Lessee hereunder, or any Affiliates of either, shall have any liability (personal or otherwise) hereunder, and no property or assets of any such Affiliates or such members, managers, trustees, directors, officers, employees, agents or servants shall be subject to levy, execution or other enforcement procedure for the satisfaction of the Agency's or any Indemnified Party's remedies hereunder.

(c) Notwithstanding anything to the contrary contained in this Agreement, but except as provided in the Guaranty Agreement, no direct or indirect partner, member, director, officer, employee, agent or shareholder of any party hereto (or any officer, director, agent, member, manager, personal representative, trustee or employee of any such direct or indirect partner, member, director, officer, employee, agent or shareholder) shall be personally liable for the performance of such party's obligations under this Agreement.

(d) The Agency hereby acknowledges and agrees that (i) the Initial Mortgagee shall have no obligation, monetary or otherwise, with respect to any of the obligations of the Lessee under this Agreement (including, without limitation, any Surviving Obligations) and (ii) in the event of a Recapture Event or any other default or Event of Default by the Lessee under this Agreement, the Agency shall exercise its rights and remedies under this Agreement and/or the Guaranty Agreement only against the Lessee and/or the Affiliate Guarantor, as applicable, and the Initial Mortgagee shall have no liability whatsoever related to or arising from any such Recapture Event or other default or Event of Default by the Lessee hereunder.

(e) The provisions of this Section 11.14 shall survive the termination of this Agreement.

Section 11.15. Confidentiality. The Agency acknowledges that the Lessee has provided and will be hereafter providing confidential information, including trade secrets and proprietary information, the disclosure of which may be harmful to the Lessee's or its Tenants' competitive position. Accordingly, the Agency agrees that, if disclosure requests are received by the Agency pursuant to the Freedom of Information Law or any judicial or legislative subpoena, requesting any financial information concerning the Lessee, its Principals or a Tenant or its

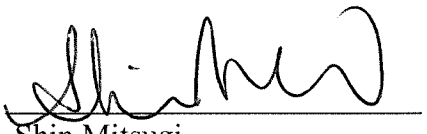
Principals, or any trade secret or proprietary information provided to the Agency by the Lessee or its Tenants, the Agency shall give the Lessee notice prior to providing such information.

Section 11.16. Legal Counsel; Mutual Drafting. Each party acknowledges that this Agreement is a legally binding contract and that it was represented by legal counsel in connection with the drafting, negotiation and preparation of this Agreement. Each party acknowledges that it and its legal counsel has cooperated in the drafting, negotiation and preparation of this Agreement and agrees that this Agreement and any provision hereof shall be construed, interpreted and enforced without regard to any presumptions against the drafting party. Each party hereby agrees to waive any rule, doctrine or canon of law, including without limitation, the *contra preferentum* doctrine, that would require interpretation of any ambiguities in this Agreement against the party that has drafted it.

Section 11.17. Estoppel Certificates. At any time, and from time to time, upon not less than ten (10) days notice by the Lessee, the Agency shall execute, acknowledge and deliver to the Lessee and to any other party specified by the Lessee a statement certifying: (a) that the Company Lease, this Agreement and any other applicable Project Document to which the Agency is a party is unmodified and in full force and effect (or, if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications), (b) the amount of all Sales Tax Savings benefits received by the Lessee, and (c) stating whether the Agency has delivered a written notice of default to the Lessee under this Agreement or other Project Document to which the Agency is a party, and, if so, specifying each such default.

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

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

By: 
Shin Mitsugi
Deputy Executive Director

LIC SITE B-1 OWNER, L.L.C.,
a Delaware limited liability company

By: _____
Name:
Title:

[Signature Page to Agency Lease and Agreement]

LIC SITE B-1 OWNER, L.L.C.,
a Delaware limited liability company

By: _____
Name:
Title:

Paul Galleno
Senior Managing Director

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

On the 28 day of June, in the year two thousand sixteen, before me, the undersigned, personally appeared Shin Mitsugi, 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

FRANCES TUFANO
Notary Public, State of New York
No. 01TU5080131
Qualified in Queens County
Commission Expires June 16, 2019

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

On the 30 day of June, in the year two thousand sixteen, before me, the undersigned, personally appeared Paul Rabiano, personally known to me or proved to me on the basis of satisfactory evidence to me 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

JESSICA L. IBURG
Notary Public, State of New York
No. 01IB6142760
Qualified in Kings County
Certificate Filed in New York County
Commission Expires March 20, 2018

APPENDICES

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 Queens, City and State of New York, bounded and described as follows:

BEGINNING at a point in the westerly line of Queens Plaza South (formerly known as Bridge Plaza South) distant 139.08 feet southerly from the corner formed by the intersection of the southerly line of 28 Street with the westerly line of Queens Plaza South;

RUNNING THENCE southwesterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 45.19 feet;

RUNNING THENCE southeasterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the westerly line of Queens Plaza South, a distance of 57.76 feet;

RUNNING THENCE southwesterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 97.50 feet to a point of curvature;

RUNNING THENCE northwesterly, along an arc bearing to the right having a radius of 133.85 feet, a distance of 165.87 feet to a point of tangency;

RUNNING THENCE northwesterly, tangent to the previous course, a distance of 69.53 feet;

RUNNING THENCE northeasterly, forming an exterior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 60.84 feet;

RUNNING THENCE westerly, forming an interior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 42.31 feet to the easterly line of 28 Street;

RUNNING THENCE southerly along 28 Street, forming an interior angle of 109 degrees 00 minutes 00 seconds with the previous course, a distance of 54.88 feet to the corner formed by the intersection of 28 Street & 42 Road;

RUNNING THENCE southeasterly along 42 Road, a distance of 247.69 feet to the corner formed by the intersection of 42 Road and Jackson Avenue;

RUNNING THENCE northeasterly along Jackson Avenue, a distance of 402.80 feet to the corner formed by the intersection of Jackson Avenue and Queens Plaza South;

RUNNING THENCE northerly along Queens Plaza South, a distance of 161.45 feet;

RUNNING THENCE northwesterly along Queens Plaza South and forming an interior angle of 145 degrees 29.7 seconds, a distance of 136.82 feet to the point or place of **BEGINNING**;

Exhibit A-1

DESCRIPTION OF THE ADDITIONAL PARCEL

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

COMMENCING at the corner formed by the intersection of the southerly line of 28th Street with the westerly line of Queens Plaza South (formerly known as Bridge Plaza South) and running the following two courses to the point or place of BEGINNING:

1) **RUNNING THENCE** southeasterly, along the westerly line of Queens Plaza South, 139.08 feet;

2) **RUNNING THENCE** southwesterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 45.19 feet to the point or place of BEGINNING.

RUNNING THENCE southeasterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the westerly line of Queens Plaza South, a distance of 57.76 feet;

RUNNING THENCE southwesterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 97.50 feet to a point of curvature;

RUNNING THENCE northwesterly, along an arc bearing to the right having a radius of 133.85 feet, a distance of 165.87 feet to a point of tangency;

RUNNING THENCE northwesterly, tangent to the previous course, a distance of 69.53 feet;

RUNNING THENCE northeasterly, forming an interior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 60.84 feet;

RUNNING THENCE southeasterly, forming an interior angle of 109 degrees 00 minutes 00 seconds with the previous course, a distance of 49.72 feet to a point of curvature;

RUNNING THENCE southeasterly, along an arc bearing to the left having a radius of 76.33 feet, a distance of 94.59 feet to a point of tangency;

RUNNING THENCE northeasterly, tangent to the previous course and parallel with the southerly line of 28 Street, a distance of 92.21 feet to the point or place of BEGINNING.

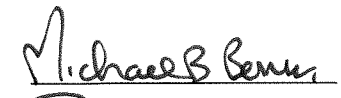
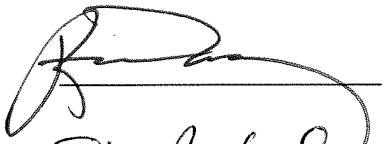
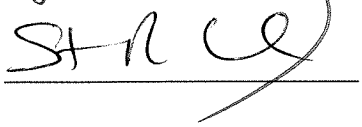
EXHIBIT B

[RESERVED]

EXHIBIT C

AUTHORIZED REPRESENTATIVES

(i) of the Lessee:

Name	Title	Signature
Michael B. Benner	Vice President & Secretary	
Paul A. Galiano	Senior Managing Director	
Russell Makowsky	Vice President & Treasurer	
Steven Wechsler	Senior Managing Director	

(ii) of the Affiliate Guarantor:

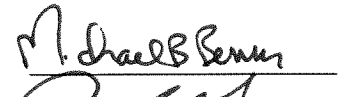
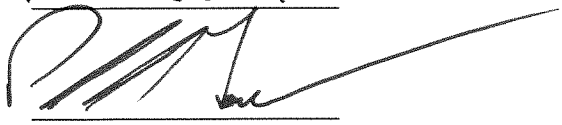
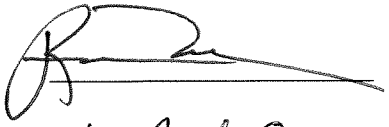
Name	Title	Signature
Michael B. Benner	Vice President & Secretary	
Paul A. Galiano	Senior Managing Director	
Russell Makowsky	Vice President & Treasurer	
Steven Wechsler	Senior Managing Director	

EXHIBIT D

PRINCIPALS

Lessee:

Michael B. Benner	Vice President & Secretary
Paul A. Galiano	Senior Managing Director
Russell Makowsky	Vice President & Treasurer
David Augarten	Vice President & Assistant Secretary

Affiliate Guarantor:

Michael B. Benner	Vice President & Secretary
Paul A. Galiano	Senior Managing Director
Russell Makowsky	Vice President & Treasurer
David Augarten	Vice President & Assistant Secretary

OWNERS OF THE LESSEE

INDIVIDUAL OWNERS	
Name	**% Ownership or Control of the Lessee**

ENTITY OWNERS	
Name	**% Ownership or Control of the Lessee**
LIC Site B-1 Mezz, L.L.C.	100%

OWNERS of those ENTITIES that own or control more than 10% of the Lessee ("10% Entities")		
10% ENTITY (name and actual %)	**INDIVIDUAL AND ENTITY OWNERS**	**% Ownership or Control**
LIC Site B-1 Mezz, L.L.C. – 100%	LIC Site B-1 JV Holdings, L.P.	100%

OWNERS OF TSCE

INDIVIDUAL OWNERS	
Name	**% Ownership or Control of TSCE**

ENTITY OWNERS	
Name	**% Ownership or Control of TSCE**
Tishman Speyer Crown Equities L.L.C.	100%

OWNERS of those ENTITIES that own or control more than 10% of TSCE ("10% Entities")		
10% ENTITY (name and actual %)	**INDIVIDUAL AND ENTITY OWNERS**	**% Ownership or Control**
Tishman Speyer Crown Equities L.L.C. – 100%	TSE Limited Partnership	50%
	Global Associates	50%

OWNERS OF AFFILIATE GUARANTOR

INDIVIDUAL OWNERS	
Name	**% Ownership or Control of Affiliate Guarantor**

ENTITY OWNERS	
Name	**% Ownership or Control of Affiliate Guarantor**
Tishman Speyer Crown Equities 2007 L.L.C.	100%

OWNERS of those ENTITIES that own or control more than 10% of Affiliate Guarantor ("10% Entities")		
10% ENTITY (name and actual %)	**INDIVIDUAL AND ENTITY OWNERS**	**% Ownership or Control**
Tishman Speyer Crown Equities 2007 L.L.C. – 100%	TSE Limited Partnership	50%
	Speyer Worldwide Investors, L.L.C.	50%

EXHIBIT E

PROJECT COST BUDGET

	Mortgage Loan	Funds of Lessee	Total
Land Acquisition	$0.0M	$11.4M	$11.4M
New Construction	$46.7M	$342.2M	$388.9M
Capitalized Interest	$20.9M	$9.9M	$30.8M
Fees/Other Soft Costs	$141.9M	$136.0M	$277.9M
Total	**$209.5M**	**$499.5M**	**$709.0M**

EXHIBIT F

[FORM OF REQUIRED DISCLOSURE STATEMENT]

The undersigned, an authorized representative of _____, a _____ organized and existing under the laws of the State of _____, DOES HEREBY CERTIFY, REPRESENT AND WARRANT to the New York City Industrial Development Agency (the "Agency") pursuant to [Section 8.20] [Section 8.9] of that certain Agency Lease and Agreement, dated as of June 30, 2016, between the Agency and LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware (the "Lease Agreement") THAT:

[if being delivered pursuant to 8.20 of the Lease Agreement] None of the surviving, resulting or transferee Entity, any of the Principals of such Entity, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

[if being delivered pursuant to 8.9 of the Lease Agreement] Neither the above-referenced Entity, nor any of the Principals of such Entity, nor any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

1. is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency, NYCEDC or the City, unless such default or breach has been waived in writing by the Agency, NYCEDC or the City, as the case may be;

2. has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

3. has been convicted of a felony in the past ten (10) years;

4. has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

5. has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in a court or other appropriate forum.

As used herein, the following capitalized terms shall have the respective meanings set forth below:

"City" shall mean The City of New York.

"Control" or "Controls" shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the

members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

"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.

"Governing Body" shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

"NYCEDC" shall mean New York City Economic Development Corporation, a New York not-for-profit corporation, and any successor thereof.

"Person" shall mean an individual or any Entity.

"Principal(s)" shall mean, with respect to any Entity, (i) the most senior three officers of such Entity, (ii) any Person with a ten percent (10%) or greater ownership interest in such Entity (except that if such Entity is listed on any national or regional stock exchange, including electronic exchanges, then the "Principals" of such Entity will not include any such Person unless they are also a Principal by virtue of clause (i) or clause (iii) hereof), and (iii) any Person as shall have the power to Control such Entity, and "Principal" shall mean any of such Persons.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of _____, 20__.

[NAME OF CERTIFYING ENTITY]

By: _____
Name:
Title:

EXHIBIT G

PROJECT COMPLETION CERTIFICATE OF LESSEE AS REQUIRED BY SECTIONS 3.3(f) AND 8.14(g) OF THE LEASE AGREEMENT

The undersigned, an Authorized Representative (as defined in the Lease Agreement referred to below) of LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware (the "Lessee"), HEREBY CERTIFIES that this Certificate is being delivered in accordance with the provisions of Section 3.3(f) and 8.14(g) of that certain Agency Lease and Agreement, dated as of June 30, 2016 (the "Lease Agreement"), between the New York City Industrial Development Agency (the "Agency") and the Lessee, and FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Lease Agreement):

(i) the Project Work is finished and the Project Improvements have been completed substantially in accordance with the requirements for the Project set forth in the Deed, and the date of completion of the Project Improvements was _____; and

(ii) the Project Improvements are Substantially Complete; and

(iii) the Agency has a good and valid leasehold estate in the Facility, and all property constituting the Facility is subject to the Company Lease and the Lease Agreement, subject only to Permitted Encumbrances; and

(iv) the Project Improvements have satisfied the Parking Obligation; and

(v) attached hereto is a copy of one of the following (check only one and attach a copy of the indicated document) allowing for the occupancy by tenants of at least ninety percent (90%) of the floors in the Facility:

☐ certificate of occupancy, or

☐ temporary certificate of occupancy; and

(vi) other than as provided pursuant to "(v)" preceding, there is no certificate, license, permit, written approval or consent or other document required to permit the occupancy, operation and use of the Facility as the Approved Facility that has not already been obtained or received, except for such certificates, licenses, permits, authorizations, written approvals and consents that will be obtained in the ordinary course of business and the issuance of which are ministerial in nature; and

(vii) the Facility is ready for occupancy, use and operation for the Approved Project Operations in accordance with all applicable laws, regulations, ordinances and guidelines, and such occupancy, use and operation has in fact commenced; and

(viii) check as applicable:

☐ all costs for Project Work have been paid, or

☐ all costs for Project Work have been paid except for

☐ amounts not yet due and payable (attach itemized list) and/or

☐ amounts the payments for which are being contested in good faith (attach itemized list with explanations); and

(ix) releases of mechanics' liens have been obtained from the general contractor and from all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project Work, except for releases-of-liens pertinent to (y) amounts not yet due and payable, or (z) any amount the payment of which is being contested in good faith; copies of all such releases of mechanics' liens are attached hereto; and

(x) attached hereto is a current schedule of the aggregate Usable Square Footage for the Improvements and the aggregate Usable Square Footage for each floor of the Improvements; and

(xi) the gross square footage of the Project Improvements constituting retail space does not exceed 50,000 gross square feet; and

(xii) the Building contains at least 1,021,177 aggregate gross square feet (*i.e.,* the aggregate sum of the gross areas of the several floors of the buildings, both above and below grade, measured from the exterior faces of exterior walls or from the center lines of walls separating the two buildings); and

(xiii) the aggregate amount of Sales Tax Savings that the Lessee and all Agents acting on behalf of the Lessee received was $_____, which is less than the Maximum Sales Tax Savings Amount, and all of such Sales Tax Savings was incurred for Eligible Items.

[ATTACH to this Certificate copies of all such releases of liens.]

Notwithstanding anything herein or elsewhere that may be inferred to the contrary, the undersigned hereby understands and agrees on behalf of the Lessee as follows: (a) the Agency does not waive its right to require delivery of releases-of-liens in connection with the costs of Project Work; (b) the Agency does not waive its right under the Lease Agreement to demand the discharge of mechanics' and materialmens' liens encumbering the Facility, whether by bond or otherwise; and (c) the Certificate shall be deemed incomplete if, in the Agency's sole discretion, the Lessee has unreasonably failed to bond or otherwise discharge any liens in respect of the costs of Project Work when payment for the same is due.

This Certificate is given without prejudice to any rights of the Lessee against third parties existing on the date hereof or which may subsequently come into being and no Person other than the Agency may benefit from this Certificate.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this _____ day of _____, ____.

LIC SITE B-1 OWNER, L.L.C.

By: _____
Name:
Title:

EXHIBIT H

[FORM OF SALES TAX AGENT AUTHORIZATION LETTER]

SALES TAX AGENT AUTHORIZATION LETTER

EXPIRATION DATE: JANUARY 31, 2020

ELIGIBLE LOCATION:
28-10 Queens Plaza South, New York, New York

_____ __, 2016

TO WHOM IT MAY CONCERN

Re: New York City Industrial Development Agency
(2016 LIC Site B-1 Owner, L.L.C. Project)

Ladies and Gentlemen:

The New York City Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. Pursuant to a certain Agency Lease and Agreement, dated as of June 30, 2016 (the "Agreement"), between the Agency and LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware (the "Lessee"), the Agency has authorized the Lessee to act as its agent for the in connection with the Project described therein including the Facility located at the Eligible Location described above. Certain capitalized terms used herein and not defined shall have the respective meanings given to such terms in the Agreement.

2. Upon the Lessee's request, the Agency has appointed [insert name of Agent] (the "Agent"), pursuant to this Sales Tax Agent Authorization Letter (the "Sales Tax Agent Authorization Letter") to act as the Agency's agent for the purpose of effecting purchases exempt from sales or use tax in accordance with the terms, provisions of this Sales Tax Agent Authorization Letter and the Agreement. **The Agent should review the definitions of Eligible Items and Ineligible Items in Exhibit A hereto with respect to the scope of Sales Tax Exemption provided under the Agreement and hereunder.**

3. The effectiveness of the appointment of the Agent as an agent of the Agency is expressly conditioned upon the execution by the Agency of New York State Department of Taxation and Finance Form ST-60 "IDA Appointment of Project or Agent" ("Form ST-60") to evidence that the Agency has appointed the Agent as its agent (the form of which to be completed by Agent and the Lessee). Pursuant to the exemptions from sales and use taxes available to the Agent under this Sales Tax Agent Authorization Letter, the Agent shall avail itself of such exemptions when purchasing eligible materials and services in connection with the Project and shall not include such taxes in its contract price, bid or reimbursable costs, as the case may be.

4. The Agent acknowledges that the executed Form ST-60 shall not serve as a sales or use tax exemption certificate or document. No agent or project operator may tender a copy of the executed Form ST-60 to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY AN AGENT, PROJECT OPERATOR, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY EIGHT AND THIRTY SEVEN OF THE TAX LAW, THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

5. As agent for the Agency, the Agent agrees that it will present to each seller or vendor a completed and signed **NYSDTF Form ST-123 "IDA Agent or Project Operator Exempt Purchase Certificate"** or such additional or substitute form as is adopted by NYSDTF for use in completing purchases that are exempt from Sales and Use Taxes ("Form ST-123") for each contract, agreement, invoice, bill or purchase order entered into by the Agent, as agent for the Agency, for the construction of the Core and Shell of the Project. Form ST-123 requires that each seller or vendor accepting Form ST-123 identify the Project on each bill and invoice and invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Lessee, as Project operator of the Agency, was the purchaser. The Agent shall complete Form ST-123 as follows: (i) the "Project Information" section of Form ST-123 should be completed using the name and address of the Project as indicated on the Form ST-60 used to appoint the Agent; (ii) the date that the Agent was appointed as an agent should be completed using the date of the Agent's Sales Tax Agent Authorization Letter; and (iii) the "Exempt purchases" section of Form ST-123 should be completed by marking "X" in box "A" only.

6. The Agent agrees to comply with the terms and conditions of the Agreement. The Agent must retain for at least six (6) years from the date of expiration of its Contract copies of (a) its contract with the Lessee to provide services in connection with the Project, (b) all contracts, agreements, invoices, bills or purchases entered into or made by such Agent using the Letter of Authorization for Sales Tax Exemption, and (c) the executed Form ST-60 appointing the Agent as an agent of the Agency, and shall make such records available to the Agency upon reasonable notice. This provision shall survive the expiration or termination of this Sales Tax Agent Authorization Letter.

7. In order to assist the Lessee in complying with its obligation to file New York State Department of Taxation and Finance Form ST-340 "Annual Report of Sales and Use Tax Exemptions Claimed by Project Operator of Industrial Development Agency/Authority" ("Form ST-340"), the Agent covenants and agrees that it shall file semi-annually with the Lessee (no later than January 15th and July 15th of each calendar year in which it has claimed sales and use tax exemptions in connection with the Project) a written statement of all sales and use tax exemptions claimed by such Agent for the preceding six-month period (ending on June 30th or December 31st, as applicable) in connection with the Project and the Facility by completing and submitting to the Lessee the **Sales Tax Registry** attached hereto as **Exhibit B**. If the Agent fails

to comply with the foregoing requirement, the Agent shall immediately cease to be the agent for the Agency in connection with the Project (such agency relationship being deemed to be immediately revoked) without any further action of the parties, the Agent shall be deemed to have automatically lost its authority to make purchases as agent for the Agency, and shall desist immediately from all such activity.

8. The Agent agrees that if it fails to comply with the requirements for sales and use tax exemptions, as described in this Sales Tax Agent Authorization Letter, it shall pay any and all applicable Sales Tax Savings and any interest and penalties thereon. This provision shall survive the expiration or termination of this Sales Tax Agent Authorization Letter.

9. Special Provisions Relating to State Sales Tax Savings.

(a) The Agent covenants and agrees to comply, and to cause each of its contractors, subcontractors, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3) (the "Special Provisions"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Sales Tax Agent Authorization Letter or the Agreement and the Special Provisions, the Special Provisions shall control.

(b) The Agent acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Agent State Sales Tax Savings taken or purported to be taken by the Agent or any other person or entity acting on behalf of the Agent to which Agent or the Lessee is not entitled or which are in excess of the Maximum Sales Tax Exemption Amount or which are for property or services not authorized or taken in cases where the Lessee, any Agent or any other person or entity acting on behalf of the Lessee or the Agent failed to comply with a material term or condition to use property or services in the manner required by this Sales Tax Agent Authorization Letter or the Agreement. The Agent, and any other person or entity acting on behalf of the Agent, shall cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State Sales Tax Savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner") to assess and determine State Sales and Use Taxes due from the Lessee and/or the Agent under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(c) The Agent is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to the Agent, the Lessee or any other party) that the Agency is subject to certain requirements under General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of State Sales Tax Savings from the Agent, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such

amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, State Sales Tax Savings from the Agent, the Lessee or other person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State Sales Tax Savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. The report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the Annual financial statement required by General Municipal Law Section 859(1)(b). Such report required by this subdivision shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete the report required by General Municipal Law Section 875(3)(b) shall be deemed to be the failure to file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(d) The foregoing requirements shall apply to any amounts of State Sales Tax Savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency or the Lessee or other person or entity acting on behalf of the Lessee characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be State Sales and Use Taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the State.

10. Subject to the provisions of Section 9 hereof, in the event that the Agent shall utilize the Sales Tax Exemption in violation of the provisions of the Agreement or this Sales Tax Agent Authorization Letter, the Agent shall promptly deliver notice of same to the Lessee and the Agency, and the Agent shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Agent.

11. Upon request by the Agency with reasonable notice to the Agent, the Agent shall make available at reasonable times to the Agency all such books, records, contracts, agreements, invoices, bills or purchase orders of the Agent, and require all appropriate officers and employees of the Agent to respond to reasonable inquiries by the Agency as shall be necessary

(y) to indicate in reasonable detail those costs for which the Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (z) to permit the Agency to determine any amounts owed by the Agent under Section 10.

12. The Agent represents and warrants that, except as otherwise disclosed to the Agency, none of the Agent, the Principals of the Agent, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with the Agent:

(a) is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Agency or the City, unless such default or breach has been waived in writing by the Agency or the City, as the case may be;

(b) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(c) has been convicted of a felony in the past ten (10) years;

(d) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(e) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in a court or other appropriate forum.

As used herein, the following capitalized terms shall have the respective meanings set forth below:

"City" shall mean The City of New York.

"Control" or "Controls" shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

"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.

"Governing Body" shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

"Person" shall mean an individual or any Entity.

"Principal(s)" shall mean, with respect to any Entity, (i) the most senior three officers of such Entity, (ii) any Person with a ten percent (10%) or greater ownership interest in such Entity (except that if such Entity is listed on any national or regional stock exchange, including electronic exchanges, then the "Principals" of such Entity will not include any such Person unless they are also a Principal by virtue of clause (i) or clause (iii) hereof), and (iii) any Person as shall have the power to Control such Entity, and "Principal" shall mean any of such Persons.

13. By execution of this Sales Tax Agent Authorization Letter, the Agent agrees to accept the terms hereof and represent and warrant to the Agency that the use of this Sales Tax Agent Authorization Letter by the Agent is strictly for the purposes stated herein.

14. The Agent acknowledges that this Sales Tax Agent Authorization Letter will terminate on the date (the "Termination Date") that is the earlier of (i) the Expiration Date referred to above, and (ii) the expiration or termination of the Agreement. Upon the Termination Date, the agency relationship between the Agency and the Agent shall terminate.

The signature of a representative of the Agent where indicated below will indicate that the Agent accepted the terms hereof.

NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name:
Title:

ACCEPTED AND AGREED TO BY:

[AGENT]

By: _____
Name:
Title:

Exhibit A

To

SALES TAX AGENT AUTHORIZATION LETTER

Set forth below is a description of items that are eligible for the Sales Tax Exemption

Eligible Items shall mean the following items of personal property and services, but excluding any Ineligible Items, with respect to which the Agent shall be entitled to claim a Sales Tax Exemption in connection with the Project:

(i) purchases of materials, goods, personal property and fixtures and supplies that will be incorporated into and made an integral component part of the Core and Shell of the Building;

(ii) purchases or leases of any item of materials, goods, machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property having a useful life of one year or more and that will be incorporated into and made an integral component part of the Core and Shell of the Building;

(iii) with respect to the eligible items identified in (ii) above: purchases of freight, installation, maintenance and repair services required in connection with the shipping, installation, use, maintenance or repair of such items; provided that maintenance shall mean the replacement of parts or the making of repairs;

(iv) purchases of materials, goods and supplies that are to be used and substantially consumed in the course of construction of the Core and Shell of the Building (but excluding fuel, materials or substances that are consumed in the course of operating machinery and equipment or parts containing fuel, materials or substances where such parts must be replaced whenever the substance is consumed); and

(v) leases of machinery and equipment solely for temporary use in connection with the construction of the Core and Shell of the Building.

Ineligible Items shall mean the following items of personal property and services with respect to which the Agent shall not be entitled to claim a Sales Tax Exemption in connection with the Project:

(i) vehicles of any sort, including watercraft and rolling stock;

(ii) personalty having a useful life of one year or less;

(iii) any cost of utilities, cleaning services or supplies or other ordinary operating costs;

(iv) fine art and other similar decorative items;

(v) plants, whether potted or landscaped;

(vi) ordinary office supplies such as pencils, paper clips and paper;

(vii) any materials or substances that are consumed in the operation of machinery;

(viii) equipment or parts containing materials or substances where such parts must be replaced whenever the substance is consumed; and

(ix) maintenance of the type as shall constitute janitorial services.

Exhibit B

To

SALES TAX AGENT AUTHORIZATION LETTER

SALES TAX REGISTRY

Please Complete: **REPORTED PERIOD**: SEMI-ANNUAL PERIOD FROM [JANUARY 1] [JULY 1], 201__ to [JUNE 30][DECEMBER 31], 201__

Description of Item (incl. Serial #, if applicable)	Location of Item	Dollar Amount	Vendor Description	Date of Payment	Purchase order or invoice number	Sales Tax Savings

TOTAL SALES TAX SAVINGS REALIZED DURING THE SEMI-ANNUAL REPORTED PERIOD:	

Certification: I, the undersigned, an authorized officer or principal owner of the company identified below, hereby certify to the best of my knowledge and belief that all information contained in this report is true and complete. The information reported in this form includes all Sales Tax Savings realized by the company identified below and its

principals, affiliates, tenants, subtenants, contractors and subcontractors. This form and information provided pursuant hereto may be disclosed to the New York City Industrial Development Agency ("NYCIDA") and New York City Economic Development Corporation ("NYCEDC"), and may be disclosed by NYCIDA and/or NYCEDC in connection with the administration of the programs by NYCIDA and/or NYCEDC; and, without limiting the foregoing, such information may be included in reports or disclosure required by law.

Name of Agent: _____

Signature By: _____

Name (print): _____

Title: _____

Date: _____

EXHIBIT I

Sales Tax Registry

Please Complete: **REPORTED PERIOD**: ANNUAL PERIOD FROM JULY 1, 201__ to JUNE 30, 201__

Description of Item (incl. Serial #, if applicable)	Location of Item	Dollar Amount	Vendor Description	Date of Payment	Purchase order or invoice number	Sales Tax Savings
SEMI-ANNUAL PERIOD FROM JULY 1, [____] to DECEMBER 31, [____]						
TOTAL SALES TAX SAVINGS REALIZED DURING THE SEMI-ANNUAL PERIOD FROM JULY 1, [____] to DECEMBER 31, [____]:						
SEMI-ANNUAL PERIOD FROM JANUARY 1, [____] to JUNE 30, [____]						
TOTAL SALES TAX SAVINGS REALIZED DURING THE SEMI-ANNUAL PERIOD FROM JANUARY 1, [____] to JUNE 30, [____]:						

TOTAL SALES TAX SAVINGS REALIZED DURING THE ANNUAL REPORTED PERIOD:	

Certification: I, the undersigned, an authorized officer or principal owner of the Lessee, hereby certify to the best of my knowledge and belief that all information contained in this report is true and complete. The information reported in this form includes all Sales Tax Savings realized by the Lessee below and its principals, affiliates, tenants, subtenants, contractors, subcontractors and any other person or entity pursuant to the LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION issued to the Lessee, and any SALES TAX AGENT AUTHORIZATION LETTER issued to any other person or entity at the

direction of the Lessee, by New York City Industrial Development Agency. This form and information provided pursuant hereto may be disclosed to the New York City Economic Development Corporation ("NYCEDC"), and may be disclosed by NYCEDC in connection with the administration of the programs by NYCEDC; and, without limiting the foregoing, such information may be included in reports or disclosure required by law.

Lessee Name: _____

Signature By: _____

Name (print): _____

Title: _____

Date: _____

EXHIBIT J

PROJECT FINANCE PLAN

The plan for financing the cost of the Project, which the Lessee estimates to be approximately $709 million, will come from the following sources:

(i) a mortgage loan in the aggregate principal amount of $275 million to the Lessee as evidenced by certain project and building loan agreements dated on or about the date hereof entered into by the Lessee and Bank of the Ozarks; and

(ii) equity from the Lessee or its affiliates in the amount of approximately $432 million, to be repaid in part by a mezzanine loan in the approximate principal amount of $145 million.

EXHIBIT K

HireNYC

The Lessee agrees to collaborate with the New York City Department of Small Business Services or such other New York City agency as may be designated by NYCEDC in a notice to the Lessee ("**Designated City Agency**"). The Designated City Agency will assist the Lessee in implementing the HireNYC Program including the screening of candidates from the target population ("**Target Population**"), defined as persons who have an income that is below two hundred percent (200%) of the poverty level as determined by the New York City Center for Economic Opportunity (a description of the income level meeting this threshold for each household size is available at http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2013.pdf). The HireNYC Program will be in effect for a period of eight (8) years from the Project Completion Date ("**HireNYC Program Term**").

The HireNYC Program will apply to the Lessee, its successors and assigns, to all other retail tenants and subtenants at the Facility that execute leases or subleases during the HireNYC Program Term, and to office tenants and subtenants that have elected to participate in the HireNYC Program after request by Lessee (such tenants or subtenants executing leases or subleases during the HireNYC Program Term, hereinafter "Tenants" and "Subtenants"). For the avoidance of doubt, tenants and subtenants that executed leases or subleases for a portion of the Facility prior to the HireNYC Program Term will not participate in the HireNYC Program with respect to such leased or subleased portions of the Facility unless they elect to do so.

I. Goals. The HireNYC Program includes, at a minimum, the following hiring and workforce development goals (collectively, the "**Goals**"):

Hiring Goal:	Fifty percent (50%) of (i) all new entry to mid-level permanent office related jobs and (ii) all new permanent retail-related jobs created in connection with the Facility (limited to jobs created by Tenants, Subtenants, and the Lessee, but excluding jobs relocated from other sites) will be filled by members of the Target Population referred by the Designated City Agency for a period beginning, for each employer, at commencement of business operations and continuing through the end of the HireNYC Program Term. Entry to mid-level jobs mean jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see column F of https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls. Notwithstanding the foregoing, the Hiring Goal shall only apply to hiring on occasions when the Lessee (or a Tenant or Subtenant) is hiring for five (5) or more permanent jobs.
Retention Goal:	Forty percent (40%) of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine (9) months from date of hire.

Advancement Goal: Thirty percent (30%) of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one (1) year of date of hire.

Training Goal: Cooperation with NYCEDC and the Designated City Agency to provide skills-training or higher education opportunities to members of the Target Population.

II. Program Commitments. HireNYC Program includes all of the following commitments:

1. Designation of a workforce development liaison by the Lessee to interact with NYCEDC and the Designated City Agency during the course of the HireNYC Program.

2. Commitment by the Lessee to do the following:

   a. use good faith efforts to achieve the Goals;
   b. notify NYCEDC six (6) weeks prior to commencing business operations;
   c. with respect to initial hiring for any new permanent jobs associated with the commencement of business at the Facility (but only if initial hiring is for five (5) or more permanent jobs:
      (i) provide NYCEDC and the Designated City Agency with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least three (3) months before commencing hiring; and
      (ii) consider only applicants referred by the Designated City Agency for the first ten (10) business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
   d. with respect to ongoing hiring on occasions when hiring for five (5) or more permanent jobs:
      (i) provide NYCEDC and the Designated City Agency with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least one (1) month before commencing hiring or as soon as information is available, but in all cases not later than one (1) week before commencing hiring; and
      (ii) consider only applicants referred by the Designated City Agency for the first five business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
   e. notify NYCEDC thirty (30) days prior to execution of any Tenant leases or Subtenant subleases at the Facility;
   f. provide NYCEDC with one (1) electronic copy of all Tenant leases and Subtenant subleases at the project location within fifteen (15) days of execution;
   g. submit to NYCEDC an annual HireNYC Employment Report in the form provided by NYCEDC (or quarterly reports at the discretion of NYCEDC);
   h. cooperate with annual site visits and, if requested by NYCEDC, employee satisfaction surveys relating to employee experience with the Lessee's HireNYC Program;

i. provide information related to the HireNYC Program and the hiring process to NYCEDC upon request; and

j. allow information collected by NYCEDC and the Designated City Agency to be included in public communications, including press releases and other media events; provided, that, the parties hereto agree not to include the name of the Lessee, the name "Tishman Speyer" or the name or address of the Facility without the prior written approval of the Lessee.

III. General Commitments. The following are general commitments of the HireNYC Program

1. The Lessee shall request the participation of office tenants at the Facility in the HireNYC Program. The Lessee shall incorporate the terms of its HireNYC Program into all retail Tenant leases and Subtenant subleases, which shall then obligate such retail Tenants and Subtenants to use good faith efforts to fulfill the Goals and to fulfill other commitments in the Lessee's HireNYC Program to the same extent as the Lessee.

2. Enforcement. In the event NYCEDC determines that the Lessee or any of its retail Tenants or Subtenants has not fulfilled any of the HireNYC Program commitments, including, without limitation, a determination that the Lessee or any of its retail Tenants or Subtenants, has failed to use good faith efforts to fulfill the Goals, NYCEDC shall notify the Agency and the Agency may (1) impose the Program Assessments set forth immediately below; and/or (2) assert any other right or remedy it has under the Agreement.

3. Program Assessments. If the Lessee or any of its retail Tenants or Subtenants, does any of the following:

(i) fails to use good faith efforts to comply with its commitments set forth in Section II(2), clauses (a)(with respect to the Hiring Goal), or does not fulfill the commitments set forth in Section II(2), , (c), and/or (d), and as a result the Designated City Agency was unable to refer applicants or participate in the hiring process as required by the Program and such failure shall continue for a period of thirty (30) days after receipt of notice from NYCEDC; or

(ii) fails to fulfill its commitments set forth in Section II(2), clauses (f), (g), (h), (i), and/or (j) and such failure shall continue for a period of thirty (30) days after receipt of notice from NYCEDC,

then, in the case of clause (i), the Agency may impose a Program Assessment in the amount of $2,500 for each position for which the Designated City Agency was unable to refer applicants or otherwise participate in hiring as required by the Program; and in the case of clause (ii), the Agency may impose a Program Assessment in the amount of $1,000 for each commitment that is not fulfilled. The Lessee shall be liable for and shall

pay to the Agency all Program Assessments assessed against the Lessee or any of its retail Tenants and Subtenants at the Facility upon receipt of demand from the Agency (except that if such retail Tenant or Subtenant is a party to an agreement pursuant to which it undertakes to perform the HireNYC Goals, Program Commitments and General Commitments as described herein, including the payment of Program Assessments, and such agreement is enforceable by EDC or the Agency directly against such Tenant or Subtenant, then the Lessee shall not be responsible for Program Assessments assessed against such Tenant or Subtenant). No Program Assessments shall be imposed for the failure of an office Tenant or Subtenant (but not a retail Tenant or Subtenant) to meet any commitment referenced in this Section 3.

EXHIBIT L
FORM OF LW AGREEMENT

LIVING WAGE AGREEMENT

This LIVING WAGE AGREEMENT (this "Agreement") is made as of [_____], by [_____] ("Obligor") in favor of the Lessee, the Agency, the City, the DCA and the Comptroller (each as defined below) (each, an "Obligee"). In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Obligor hereby covenants and agrees as follows:

1. Definitions. As used herein the following capitalized terms shall have the respective meanings specified below.

"Agency" means 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, having its principal office at 110 William Street, New York, New York 10038.

"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 paragraph 10(a).

"Asserted LW Violation" has the meaning specified in paragraph 10(a).

"City" means The City of New York.

"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 the Lessee, an Affiliate of the Lessee or any tenant, subtenant, leaseholder or subleaseholder of the Lessee or of an Affiliate of the Lessee to operate at the Facility for the primary purpose of selling goods or services to natural persons at the Facility.

"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 Obligor or an Affiliate of Obligor to lease, occupy, operate or perform work at the Obligor Facility.

"Covered Employer" means any of the following Persons: (a) Obligor, (b) a tenant, subtenant, leaseholder or subleaseholder of Obligor that leases any portion of the Obligor Facility (or an Affiliate of any such tenant, subtenant, leaseholder or subleaseholder if such Affiliate has one or more direct Site Employees), (c) a Concessionaire that operates on any portion of the Obligor Facility, and (d) a Person that contracts or subcontracts with any Covered Employer described in clauses (a), (b) or (c) above to perform work for a period of more than ninety days on any portion of the Obligor Facility, 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 case calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Obligor Facility if residential units comprise more than 75% of the total Facility area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Agency 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) if the Lessee is a "covered developer" under and as defined in the Prevailing Wage Law, 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.

"Facility" means the land and real property improvements located at 28-10 Queens Plaza South, Queens, New York, Block 420 and Lot 1.

"Lessee" means LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, having its principal office at c/o Tishman Speyer Properties, L.P, 45 Rockefeller Plaza, 9th Floor, New York, New York 10111, or its permitted successors or assigns as the Lessee under the Project Agreement.

"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 Attachment 1 (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 Obligor Facility and (c) the date of this Agreement.

"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 date of this Agreement and ending on the date that is the earlier to occur of: (a) the later to occur of (i) the date on which the Lessee is no longer receiving financial assistance under the Project Agreement or (ii) the date that is ten (10) years after the Facility commences operations; or (b) the end of the term of Obligor's Specified Contract (including any renewal or option terms pursuant to any exercised options), whether by early termination or otherwise.

"LW Violation Final Determination" has the meaning specified in paragraph 10(a)(i), paragraph 10(a)(ii)(1) or paragraph 10(a)(ii)(2), as applicable.

"LW Violation Initial Determination" has the meaning specified in paragraph 10(a)(ii).

"LW Violation Notice" has the meaning specified in paragraph 10(a).

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

"Obligor Facility" means the applicable portion of the Facility covered by the Specified Contract of Obligor.

"Operational Date" means the date that Obligor commences occupancy, operations or work at the Obligor Facility.

"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 Obligor in accordance with this 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; or (b) if Obligor failed to obtain a LW Agreement from a Covered Counterparty as required under paragraph 5 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).

"Person" means any natural person, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, governmental authority, governmental agency, governmental instrumentality or any form of doing business.

"Pre-Existing Covered Counterparty" has the meaning specified in paragraph 5.

"Pre-Existing Specified Contract" has the meaning specified in paragraph 5.

"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.

"Project Agreement" means that certain Agency Lease and Agreement, dated as of June 30, 2016, between the Agency and the Lessee (as amended, restated, supplemented or otherwise modified from time to time), pursuant to which the Lessee has or will receive financial assistance from the Agency.

"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 Employee" means, with respect to any Covered Employer, any natural person who works at the Obligor Facility 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 Obligor Facility unless the primary work location or home base of such person is at the Obligor Facility (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 Obligor Facility 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 (a) in the case of Obligor, the [_____], dated as of [_____], by and between Obligor and [_____], or (b) in the case of any other Person, the principal written contract that makes such Person a Covered Employer hereunder.

"Workplace Member" has the meaning specified in paragraph 15.

2. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall pay each of its direct Site Employees no less than an LW.

3. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall, on or prior to the day on which each direct Site Employee of Obligor begins work at the Obligor Facility, (a) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement in a conspicuous place at the Obligor Facility that is readily observable by such direct Site Employee and (b) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement. 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.

4. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall not take any adverse employment action against any Site Employee for reporting or asserting a violation of this Agreement.

5. During the LW Term, Obligor shall cause each Covered Counterparty to execute an LW Agreement on or prior to the LW Agreement Delivery Date applicable to such Covered Counterparty; provided that Obligor shall only be required to use commercially reasonable efforts (without any obligation to commence any action or proceedings) to obtain an LW Agreement from a Covered Counterparty whose Specified Contract with Obligor was entered into prior to the date hereof (a "Pre-Existing Covered Counterparty" and a "Pre-Existing Specified Contract"). Prior to the renewal or extension of any Pre-Existing Specified Contract (or prior to entering into a new Specified Contract with a Pre-Existing Covered Counterparty), Obligor shall cause or otherwise require the Pre-Existing Covered Counterparty to execute an LW Agreement, provided that the foregoing shall not preclude Obligor from renewing or extending a Pre-Existing Specified Contract pursuant to any renewal or extension options granted to the Pre-Existing Covered

Counterparty in the Pre-Existing Specified Contract as such option exists as of the date hereof. Obligor shall deliver a copy of each Covered Counterparty's LW Agreement to the Agency, the DCA and the Comptroller at the notice address specified in paragraph 12 below and promptly upon written request. Obligor 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.

6. Commencing on the Operational Date and thereafter during the remainder of the LW Term, in the event that an individual with managerial authority at Obligor 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, Obligor shall deliver written notice to the Agency, the DCA and the Comptroller within 30 days thereof.

7. Obligor hereby acknowledges and agrees that the Agency, the City, the DCA and the Comptroller are each intended to be direct beneficiaries of the terms and provisions of this Agreement. Obligor hereby acknowledges and agrees that the DCA, the Comptroller and the Agency shall each have the authority and power to enforce any and all provisions and remedies under this Agreement in accordance with paragraph 10 below. Obligor hereby agrees that the DCA, the Comptroller and the Agency may, as their sole and exclusive remedy for any violation of Obligor's obligations under this Agreement, bring an action for damages (but not in excess of the amounts set forth in paragraph 10 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 10 below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Obligor under this Agreement. The agreements and acknowledgements of Obligor set forth in this Agreement may not be amended, modified or rescinded by Obligor without the prior written consent of the Agency or the DCA.

8. No later than 30 days after Obligor's receipt of a written request from the Agency, the DCA and/or the Comptroller, Obligor shall provide to the Agency, the DCA and the Comptroller (a) a written list of all Covered Counterparties, together with the LW Agreements of such Covered Counterparties. From and after the Operational Date, no later than 30 days after Obligor's receipt of a written request from the Agency, the DCA and/or the Comptroller, Obligor shall provide to the Agency, the DCA and the Comptroller (b) a certification stating that all of the direct Site Employees of Obligor are paid no less than an LW and stating that Obligor is in compliance with this Agreement in all material respects, (c) certified payroll records in respect of the direct Site Employees of Obligor, and/or (d) any other documents or information reasonably related to the determination of whether Obligor is in compliance with its obligations under this Agreement.

9. From and after the Operational Date, Obligor shall, annually by August 1 of each year during the LW Term, submit to the Lessee such data in respect of employment, jobs and wages at the Obligor Facility as of June 30 of such year that is needed by the Lessee for it to comply with its reporting obligations under the Project Agreement.

10. Violations and Remedies.

(a) If a violation of this Agreement shall have been alleged by the Agency, the DCA and/or the Comptroller, then written notice will be provided to Obligor for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Agency, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under paragraph 10(b), (c), (d), (e) and/or (f) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Obligor's receipt of the LW Violation Notice, Obligor may either:

(i) 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

(ii) Provide written notice to the Agency, 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. Obligor 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 Agency and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Obligor and deliver to Obligor 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 Obligor's receipt of the LW Violation Initial Determination, Obligor may either:

(1) 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 (2) below, the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination"), or

(2) 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, Obligor'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 Obligor'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. Obligor shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

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

(c) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Agency or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees, and Obligor 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 (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation.

(d) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Obligor in respect of its direct Site Employees is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Obligor, then in lieu of the remedies specified in subparagraph (c) above and at the direction of the Agency or the DCA (but not both), Obligor shall pay (i) 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 Obligor, and (ii) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

(e) If Obligor fails to obtain an LW Agreement from its Covered Counterparty in violation of paragraph 5 above, then at the discretion of the Agency or the DCA (but not both), Obligor shall be responsible for payment of the Owed Monies, Owed Interest and other payments described in subparagraphs (b), (c) and (d) above (as applicable) as if the direct Site Employees of such Covered Counterparty were the direct Site Employees of Obligor.

(f) Obligor 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 (i) 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 (ii) 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 Obligor 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.

(g) It is acknowledged and agreed that (i) the sole monetary damages that Obligor may be subject to for a violation of this Agreement are as set forth in this paragraph 10, and (ii) in no event will the Specified Contract between Obligor and a given Covered Counterparty be permitted to be terminated or rescinded by the Agency, the DCA or the Comptroller by virtue of violations by Obligor or a Covered Counterparty.

11. Obligor acknowledges that the terms and conditions of this Agreement are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014.

12. All notices under this Agreement shall be in writing and shall be delivered by (a) return receipt requested or registered or certified United States mail, postage prepaid, (b) a nationally recognized overnight delivery service for overnight delivery, charges prepaid, or (c) hand delivery, addressed as follows:

(a) If to Obligor, to [Obligor's Name], [Street Address], [City], [State], [Zip Code], Attention: [Contact Person].

(b) If to the Agency, to New York City Industrial Development Agency, 110 William Street, New York, New York 10038, Attention: General Counsel, with a copy to New York City Industrial Development Agency, 110 William Street, New York, NY, 10038, Attention: Executive Director.

(c) If to the DCA, to Department of Consumer Affairs of The City of New York, 42 Broadway, New York, New York 10004, Attention: Living Wage Division.

(d) If to the Comptroller, to Office of the Comptroller of The City of New York, One Centre Street, New York, New York 10007, Attention: Chief, Bureau of Labor Law.

13. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

14. Obligor hereby irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York in New York County or the United States District Court for the Southern District of New York; (b) consents to the jurisdiction of each such court in any

such suit, action or proceeding; (c) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (d) waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to any federal court other than the United States District Court for the Southern District of New York, and (iii) to move for a change of venue to a New York State Court outside New York County.

15. With respect to any Covered Employer whose primary business consists of providing office suites and shared office workplaces, together with certain office services (such as meeting facilities and services, administrative support, high-speed broadband connectivity, furniture and customary office equipment usage, and lounge areas), to members ("Workplace Members"), the provisions of this Agreement as to the LW Law shall not apply to the Workplace Members of such Covered Employer, provided that (i) the space is not separately demised to such Workplace Members (with it being understood that the standard installation of partitions for individual Workplace Members in the ordinary course of the operation of a shared office workplace business shall not be deemed "separately demising" space) and (ii) no such Workplace Members shall have any property right or interest in any portion of the Facility (as opposed to the non-exclusive contractual right to occupy portions of the Facility).

16. Notwithstanding any other provision of this Agreement, in no event shall the partners, members, counsel, directors, shareholders or employees of Obligor have any personal obligation or liability for any of the terms, covenants, agreements, undertakings, representations or warranties of Obligor contained in this Agreement.

IN WITNESS WHEREOF, Obligor has executed and delivered this Agreement as of the date first written above.

[_____]

By: _____
Name:
Title:

ATTACHMENT 1 to EXHIBIT L
FORM OF LW AGREEMENT

LIVING WAGE AGREEMENT

This LIVING WAGE AGREEMENT (this "Agreement") is made as of [_____], by [_____] ("Obligor") in favor of the Lessee, the Agency, the City, the DCA and the Comptroller (each as defined below) (each, an "Obligee"). In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Obligor hereby covenants and agrees as follows:

1. Definitions. As used herein the following capitalized terms shall have the respective meanings specified below.

"Agency" means 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, having its principal office at 110 William Street, New York, New York 10038.

"Asserted Cure" has the meaning specified in paragraph 9(a).

"Asserted LW Violation" has the meaning specified in paragraph 9(a).

"City" means The City of New York.

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

"Covered Employer" means Obligor; 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 Obligor Facility if residential units comprise more than 75% of the total Facility area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Agency 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) if the Lessee is a "covered developer" under and as defined in the Prevailing Wage Law, 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.

"Facility" means the land and real property improvements located at 28-10 Queens Plaza South, Queens, New York, Block 420 and Lot 1.

"Lessee" means LIC Site B-1 Owner, L.L.C., a limited liability company organized and existing under the laws of the State of Delaware, having its principal office at c/o Tishman Speyer Properties, L.P, 45 Rockefeller Plaza, 9th Floor, New York, New York 10111, or its permitted successors or assigns as the Lessee under the Project Agreement.

"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 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 date of this Agreement and ending on the date that is the earlier to occur of: (a) the later to occur of (i) the date on which the Lessee is no longer receiving financial assistance under the Project Agreement or (ii) the date that is ten (10) years after the Facility commences operations; or (b) the end of the term of Obligor's Specified Contract (including any renewal or option terms pursuant to any exercised options), whether by early termination or otherwise.

"LW Violation Final Determination" has the meaning specified in paragraph 9(a)(i), paragraph 9(a)(ii)(1) or paragraph 9(a)(ii)(2), as applicable.

"LW Violation Initial Determination" has the meaning specified in paragraph 9(a)(ii).

"LW Violation Notice" has the meaning specified in paragraph 9(a).

"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.

"Obligor Facility" means the applicable portion of the Facility covered by the Specified Contract of Obligor.

"Operational Date" means the date that Obligor commences occupancy, operations or work at the Obligor Facility.

"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 the total deficiency of LW required to be paid by Obligor in accordance with this 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.

"Person" means any natural person, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, governmental authority, governmental agency, governmental instrumentality or any form of doing business.

"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.

"Project Agreement" means that certain Agency Lease and Agreement, dated as of June 30, 2016, between the Agency and the Lessee (as amended, restated, supplemented or otherwise modified from time to time), pursuant to which the Lessee has or will receive financial assistance from the Agency.

"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 Employee" means any natural person who works at the Obligor Facility and who is employed by, or contracted or subcontracted to work for, Obligor, 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 Obligor Facility unless the primary work location or home base of such person is at the Obligor Facility (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 Obligor Facility 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 (a) in the case of Obligor, the [_____], dated as of [_____], by and between Obligor and [_____], or (b) in the case of any other Person, the principal written contract that makes such Person a Covered Employer hereunder.

2. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall pay each of its direct Site Employees no less than an LW.

3. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall, on or prior to the day on which each direct Site Employee of Obligor begins work at the Obligor Facility, (a) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement in a conspicuous place at the Obligor Facility that is readily observable by such direct Site Employee and (b) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement. 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.

4. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall not take any adverse employment action against any Site Employee for reporting or asserting a violation of this Agreement.

5. Commencing on the Operational Date and thereafter during the remainder of the LW Term, in the event that an individual with managerial authority at Obligor 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, Obligor shall deliver written notice to the Agency, the DCA and the Comptroller within 30 days thereof.

6. Obligor hereby acknowledges and agrees that the Agency, the City, the DCA and the Comptroller are each intended to be direct beneficiaries of the terms and provisions of this Agreement. Obligor hereby acknowledges and agrees that the DCA, the Comptroller and the Agency shall each have the authority and power to enforce any and all provisions and remedies under this Agreement in accordance with paragraph 9 below. Obligor hereby agrees that the DCA, the Comptroller and the Agency may, as their sole and exclusive remedy for any violation of Obligor's obligations under this Agreement, bring an action for damages (but not in excess of the amounts set forth in paragraph 9 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 9 below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Obligor under this Agreement. The agreements and acknowledgements of Obligor set forth in this Agreement may not be amended, modified or rescinded by Obligor without the prior written consent of the Agency or the DCA.

7. From and after the Operational Date, no later than 30 days after Obligor's receipt of a written request from the Agency, the DCA and/or the Comptroller, Obligor shall provide to the Agency, the DCA and the Comptroller (a) a certification stating that all of the direct Site Employees of Obligor are paid no less than an LW and stating that Obligor is in compliance with this Agreement in all material respects, (b) certified payroll records in respect of the direct Site Employees of Obligor, and/or (c) any other documents or information reasonably related to the determination of whether Obligor is in compliance with its obligations under this Agreement.

8. From and after the Operational Date, Obligor shall, annually by August 1 of each year during the LW Term, submit to its counterparty to its Specified Contract such data in respect of employment, jobs and wages at the Obligor Facility as of June 30 of such year that is needed by the Lessee for it to comply with its reporting obligations under the Project Agreement.

9. Violations and Remedies.

   (a) If a violation of this Agreement shall have been alleged by the Agency, the DCA and/or the Comptroller, then written notice will be provided to Obligor for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Agency, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under paragraph 9(b), (c) and/or (d) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Obligor's receipt of the LW Violation Notice, Obligor may either:

      (i) 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

      (ii) Provide written notice to the Agency, 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. Obligor 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 Agency and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Obligor and deliver to Obligor 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 Obligor's receipt of the LW Violation Initial Determination, Obligor may either:

         (1) 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 (2) below, the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination"), or

(2) 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, Obligor'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 Obligor'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. Obligor shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

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

(c) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Agency or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees, and Obligor 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 (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation.

(d) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Obligor in respect of its direct Site Employees is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Obligor, then in lieu of the remedies specified in subparagraph (c) above and at the direction of the Agency or the DCA (but not both), Obligor shall pay (i) 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 Obligor,

and (ii) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

(e) It is acknowledged and agreed that the sole monetary damages that Obligor may be subject to for a violation of this Agreement are as set forth in this paragraph 9.

10. Obligor acknowledges that the terms and conditions of this Agreement are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014.

11. All notices under this Agreement shall be in writing and shall be delivered by (a) return receipt requested or registered or certified United States mail, postage prepaid, (b) a nationally recognized overnight delivery service for overnight delivery, charges prepaid, or (c) hand delivery, addressed as follows:

(a) If to Obligor, to [Obligor's Name], [Street Address], [City], [State], [Zip Code], Attention: [Contact Person].

(b) If to the Agency, to New York City Industrial Development Agency, 110 William Street, New York, New York 10038, Attention: General Counsel, with a copy to New York City Industrial Development Agency, 110 William Street, New York, NY, 10038, Attention: Executive Director.

(c) If to the DCA, to Department of Consumer Affairs of The City of New York, 42 Broadway, New York, New York 10004, Attention: Living Wage Division.

(d) If to the Comptroller, to Office of the Comptroller of The City of New York, One Centre Street, New York, New York 10007, Attention: Chief, Bureau of Labor Law.

12. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

13. Obligor hereby irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York in New York County or the United States District Court for the Southern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; (c) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (d) waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to any federal court other than the United States District Court for the Southern District of New York, and (iii) to move for a change of venue to a New York State Court outside New York County.

14. Notwithstanding any other provision of this Agreement, in no event shall the partners, members, counsel, directors, shareholders or employees of Obligor have any personal obligation or liability for any of the terms, covenants, agreements, undertakings, representations or warranties of Obligor contained in this Agreement.

IN WITNESS WHEREOF, Obligor has executed and delivered this Agreement as of the date first written above.

[_____]

By: _____
Name:
Title:

EXHIBIT M

Form of Deed to Additional Parcel

THIS INDENTURE (this "Indenture"), dated as of _____, 2016, between the 2 GOTHAM CENTER CONDOMINIUM ("Grantor"), having an address at 2 Gotham Center, Long Island City, New York, 11101, acting by and through its board of managers, and LIC SITE B-1 OWNER, LLC ("Grantee"), a Delaware limited liability company, having an office at c/o Tishman Speyer, 45 Rockefeller Plaza, New York, New York 10111.

W I T N E S S E T H

WHEREAS, pursuant to the Development Agreement (as defined below), Developer (as defined below) was entitled to elect, and prior to the date hereof did so duly elect, to cause NYCEDC to sell and convey to Grantee (as an affiliate of Developer) the Original Parcel (as defined below) as further described in that certain Indenture (the "Lot 1 Deed") dated as of June 30, 2016 from New York City Economic Development Corporation ("NYCEDC") to Grantee (such transaction, the "Lot 1 Conveyance");

WHEREAS, pursuant to that certain Agreement of Covenants and Restrictions, dated as of June 9, 2011 and recorded in the Queens County Clerk's office on June 17, 2011 as CRFN 2011000216982, in connection with the Lot 1 Conveyance, Grantee was entitled to elect, and prior to the date hereof did so duly elect, to cause Grantor to sell and convey to Grantee, the Property (as defined below);

WHEREAS, upon the execution and delivery of this Indenture, Grantor shall have conveyed and sold to Grantee all of Grantor's remaining right, title and interest in, to and under the Property, on the terms and conditions further described herein;

WHEREAS, in connection with the Lot 1 Conveyance and pursuant to the Lot 1 Deed, Grantee has granted in favor of NYCEDC a limited right to reacquire the Original Parcel subject and pursuant to the terms set forth in the Lot 1 Deed (the "Lot 1 Reversion Right");

WHEREAS, subject to the further terms of this Indenture, Grantee wishes to grant to NYCEDC a reversionary right with respect to the Property exercisable solely upon the exercise by NYCEDC of the Lot 1 Reversion Right;

NOW, THEREFORE, Grantor, in consideration of the sum of TEN DOLLARS ($10.00), paid by Grantee, and other valuable consideration, does hereby grant and release unto Grantee, its successors and assigns forever:

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough of Queens, City and State of New York, known as Queens Block 420, Tax Lot [100], as more particularly bounded and described in Exhibit A attached hereto and made a part hereof (the "Land");

TOGETHER with all right, title and interest of Grantor in any and all buildings and improvements now or hereafter located on the Land (the "Improvements");

TOGETHER with all right, title and interest, if any, of Grantor in and to any easements, rights of way, privileges, benefits, appurtenances, hereditaments, strips, gaps and gores, and any and all other rights, if any, thereon or in any way pertaining thereto, including, without

limitation, any land lying in the bed of any streets and roads abutting the above-described property to the center lines thereof (the foregoing, together with the Land and the Improvements, the "Property");

TO HAVE AND TO HOLD said Property herein granted unto Grantee, the successors and assigns of Grantee, forever, subject, however, to the terms of this Indenture.

Grantee, on behalf of itself, its successors and assigns, covenants (i) to, not later than January 31, 2017 (subject to Unavoidable Delays (as defined on Schedule 1 hereto)), commence construction on the Development Parcel of one or more commercial office buildings (collectively, the "Building") containing a minimum of 1,021,177 aggregate gross square feet, meaning the aggregate sum of the gross areas of the several floors of the Building, both above and below grade, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings, including the construction of a 388-space parking garage in accordance with the ULURP Approval (as defined on Schedule 1 hereto), substantially in accordance with (A) the Schematics (as defined on Schedule 1 hereto) approved in connection with that certain Amended and Restated Development Agreement (the "Development Agreement") by and among The City of New York, NYCEDC, LIC Site B, L.L.C. ("Developer") and Med-Mac Properties, Inc. dated October 7, 2008, (B) the ULURP Approval, and (C) any other approval by the City Planning Commission of The City of New York in connection with the development of the Property (the "Construction"; the date that material excavation work at the Property or the Original Parcel commences, the "Construction Commencement Date"; and the deadline for the Construction Commencement Date, the "Construction Commencement Outside Date"), (ii) to, not later than January 31, 2020 (subject to Unavoidable Delays, as defined on Schedule 1 hereto), Substantially Complete (as defined on Schedule 1 hereto) such Construction (such outside date of January 31, 2020, subject to Unavoidable Delays, by when such Construction is to be Substantially Complete, being the "Substantial Completion Outside Date"), and such date by when such Construction is Substantially Complete, being the "Substantial Completion Date"), and (iii) following Substantial Completion (as defined on Schedule 1 hereto) 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 and, 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. If Grantee transfers title to, or a leasehold interest in, the Property to IDA in connection with obtaining financial assistance, IDA on behalf of itself and any successor agency will covenant that, until the Construction required by this paragraph has been completed, any lease of the Property from it or such successor agency shall require the lessee of the Property to complete such Construction as if such lessee were the title holder of the Property and to provide in such lease of the Property that NYCEDC and its successors and assigns and designees are a named third party beneficiary of such obligation. Such requirement on the part of IDA shall be IDA's sole obligation in connection with Grantee's

Construction obligation herein. The above restrictions and covenants in this paragraph shall run with the land.

Grantee, on behalf of itself, its successors and assigns, covenants that, until Stabilization (as defined on Schedule 1 hereto) 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 NYCEDC, 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, (ii) with the prior written approval of NYCEDC. 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 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 NYCEDC with such information as NYCEDC needs in deciding whether to give any approval required hereby. Any request for approval by NYCEDC of any of the above matters, and any notice to NYCEDC, and any notice of approval or disapproval by NYCEDC, shall be in writing and given by mailing the same by certified or registered mail addressed as follows: if to NYCEDC, New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attn: Senior Vice President for Real Estate Development; if to Grantee, c/o Tishman Speyer,, 45 Rockefeller Plaza, New York, New York 10111, with a copy to Fried, Frank, Harris, Shriver & Jacobson LLP, 1 New York Plaza, New York, New York 10004, Attn: Jonathan L. Mechanic, Esq., or to such other address as either party designates to the other in writing in the manner set forth above.

In the event of acquisition by the City by condemnation or otherwise of any part or portion of the above described Property lying within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin, as shown on the present City Map, Grantee and its heirs, successors and assigns shall only be entitled, as compensation for such

acquisition by the City, to the amount of One Dollar ($1.00) and shall not be entitled to compensation for any buildings or structures erected thereon which may lie within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin so laid out and acquired. This covenant shall run with the land and shall continue until the City Map is amended or changed to eliminate from within the bed or lines of any street, avenue, parkway, expressway, park, public place or catchbasin, any such part or portion of the Property and no longer.

For purposes of this deed, "Hazardous Substances" shall mean any (i) "hazardous substance" as defined under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., or (ii) "hazardous waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or (iii) "hazardous materials" as defined under the Hazardous Materials Transportation Authorization Act, 49 U.S.C. Section 5101 et seq., or (iv) "hazardous waste" as defined under New York Environmental Conservation Law, Section 27-0901 et seq., or (v) "hazardous substance" as defined under the Clean Water Act, 33 U.S.C. Section 1321 et seq., and the regulations adopted and publications promulgated pursuant to the above, and any other material, wastes or substances defined as "hazardous" "toxic", "radioactive", 'dangerous" or "biohazardous" under any Environmental Law (as hereinafter defined); and (vi) any materials, wastes or substances that are (A) petroleum or petroleum products; (B) asbestos or asbestos-containing materials, (C) polychlorinated biplienyls, (D) lead, (E) radon, (F) flammables, (G) explosives, (H) radioactive materials or (I) materials that may have a negative effect on human health or the environment. For purposes of this Indenture, "Environmental Laws" shall mean, collectively, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et *seq,* the Hazardous Materials Transportation Authorization Act, 49 U.S.C. Section 5101 et seq., the New York Environmental Conservation Law, Section 27-0901 et seq., the Clean Water Act, 33 U.S.C. Section 1321 et seq., and any Federal, State, or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, radioactive, biohazardous or dangerous waste, substance or materials, including any regulations adopted and publications promulgated with respect thereto.

Grantee, for itself and its successors and assigns, hereby absolutely waives and releases, and agrees that neither it nor its successors and assigns, if any, shall make any claim or assert any liability for damages, contribution, indemnification or otherwise against Grantor, NYCEDC, IDA or the City, as applicable, which Grantee or its successors or assigns may now or hereafter have or discover in connection with Hazardous Substances on, in, at, under, beneath, emanating from or affecting the Property, or in connection with any voluntary or required removal or remediation thereof (including, without limitation, claims relating to the release, threatened release, disturbance, emission or discharge of Hazardous Substances) (such waiver, release and agreement being the "Hazardous Substances Waiver"). Grantor, NYCEDC, IDA and the City shall have no liability to Grantee, or its successors or assigns, with regard to Hazardous Substances, on, at, in, under, beneath, emanating from or affecting the Property. Such Hazardous Substances Waiver shall cover, without limitation, any and all liability to Grantee, both known and unknown, present and future, for any and all environmental liabilities, including without limitation any and all strict and other liability, costs, claims, fines, penalties, damages under any and all Environmental Laws with respect to investigating, remediating, mitigating, removing, treating, encapsulating, containing, monitoring, abating, or disposing of any

Hazardous Substance, and any costs incurred to come into compliance with Environmental Laws. Grantee shall include in any and all future deeds for the Property a provision providing that this Hazardous Substances Waiver is a covenant running with the land.

If (1) Grantee shall fail to perform, commence or Substantially Complete the Construction of the Building within the time and in the manner required by this Indenture, or (2) Grantee shall fail to use, or to cause to be used, the Property for fifteen (15) years in the manner required by this Indenture, or (3) Grantee shall convey all or any part of the Property (or any improvements thereon) or any interest therein in violation of the terms of this Indenture, or (4) any additional partner or member shall be admitted in Grantee or there shall be any change in the interest of any partner or member of Grantee in Grantee, in violation of the terms of this Indenture, then NYCEDC may notify Grantee of such failure or violation. Subject to the provisions of Schedule 2 annexed hereto and made a part hereof, if, within 30, days after receiving such notice (subject to Unavoidable Delays), Grantee fails to cure the failure or violation (A) in the case of a failure specified in subdivision (1) above, by commencing or resuming the Construction required by this Indenture and diligently continuing such Construction until completion, or (B) in the case of a failure specified in subdivision (2) above, by causing the Property to be used in the manner required by this Indenture, or (C) in the case of a failure specified in subdivision (3) above, by reacquiring the Property (and any improvements thereon) or any interest in either, or (D) in the case of a violation specified in subdivision (4) above, by causing the reacquisition of the interest of any partner or member of Grantee issued or transferred in violation of the terms of this Indenture, then, in addition to any remedies available to NYCEDC by law or by this Indenture, NYCEDC, without paying Grantee (or any subsequent owner of the Property (or any improvements thereon) or any interest in either) any consideration, shall have the right to re-enter and take possession of the Property (together with any improvements thereon) after giving ten (10) days written notice to Grantee of the failure or violation (such exercise by NYCEDC following such notice to Grantee, being a "Reverter Event"), and the estate conveyed hereby to Grantee shall thereupon terminate, and fee simple title to the Property, and any improvements thereon, shall vest in NYCEDC forever, except, however, that NYCEDC's acquisition of the Property (together with any improvements thereon) shall be subject to the lien of mortgages held by institutional lenders 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 encumbering the Property (each such mortgage, a "Capital Mortgage"). Upon NYCEDC's exercise of such option to enter and acquire, Grantee (and/or any subsequent owner of the Property (or any improvements thereon) or any interest in either), upon demand by NYCEDC, shall execute and deliver to NYCEDC a deed(s) for the Property (and any improvements thereon) in form and substance satisfactory to NYCEDC. The execution and delivery of the foregoing deed(s) shall not, however, be construed as a condition precedent to NYCEDC's acquisition, as aforesaid, of the Property (and any improvements thereon). Notices pursuant to this paragraph shall be in writing and sent by hand or nationally recognized overnight courier to: if to NYCEDC, New York City Economic Development Corporation, 110 William Street, New York, New York 10038, Attention: Senior Vice President for Real Estate Development; if to Grantee, c/o Tishman Speyer,, 45 Rockefeller Plaza, New York, New York 10111, with a copy to Fried, Frank, Harris, Shriver & Jacobson LLP, 1 New York Plaza, New York, New York 10004, Attention: Jonathan L. Mechanic, Esq., or to such other address as NYCEDC or Grantee designates to the other in writing in the manner indicated above. Any

attorney's costs and fees of NYCEDC in exercising the above right to enter and acquire the Property (together with any improvements thereon) or any interest in either) shall be paid by Grantee. Whenever NYCEDC or Grantee is referred to in this paragraph, it shall mean NYCEDC and its successors and assigns or Grantee and its successors and assigns, respectively. NYCEDC is hereby named third party beneficiary of Grantee's obligations and of NYCEDC's rights under this Indenture.

The conveyance pursuant to this Indenture is subject to the trust fund provisions of Section 13 of the New York State Lien Law.

The covenants of Grantor, Grantee and NYCEDC hereunder shall run with the land and bind Grantor's, Grantee's and NYCEDC's respective successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this Indenture by having it signed by its duly authorized officer, and Grantee has duly executed this deed, the day and year first above written.

GOTHAM CENTER CONDOMINIUM,

By: LIC SITE B2 OWNER, L.L.C.,
a Delaware limited liability company, its
attorney-in-fact

By: _____
Name:
Title:

LIC SITE B-1 OWNER, L.L.C.

By: _____
Name:
Title:

STATE OF NEW YORK)

SS:

COUNTY OF NEW YORK)

On the ___ day of June, in the year 2016 before me, the undersigned, personally appeared _____, 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 on behalf of which the individual acted, executed the instrument.

_____

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

On the ___ day of June, in the year 2016 before me, the undersigned, personally appeared _____, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

_____

Exhibit A

The Land

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

COMMENCING at the corner formed by the intersection of the southerly line of 28th Street with the westerly line of Queens Plaza South (formerly known as Bridge Plaza South) and running the following two courses to the point or place of BEGINNING:

1) **RUNNING THENCE** southeasterly, along the westerly line of Queens Plaza South, 139.08 feet;

2) **RUNNING THENCE** southwesterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 45.19 feet to the point or place of BEGINNING.

RUNNING THENCE southeasterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the westerly line of Queens Plaza South, a distance of 57.76 feet;

RUNNING THENCE southwesterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 97.50 feet to a point of curvature;

RUNNING THENCE northwesterly, along an arc bearing to the right having a radius of 133.85 feet, a distance of 165.87 feet to a point of tangency;

RUNNING THENCE northwesterly, tangent to the previous course, a distance of 69.53 feet;

RUNNING THENCE northeasterly, forming an interior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 60.84 feet;

RUNNING THENCE southeasterly, forming an interior angle of 109 degrees 00 minutes 00 seconds with the previous course, a distance of 49.72 feet to a point of curvature;

RUNNING THENCE southeasterly, along an arc bearing to the left having a radius of 76.33 feet, a distance of 94.59 feet to a point of tangency;

RUNNING THENCE northeasterly, tangent to the previous course and parallel with the southerly line of 28 Street, a distance of 92.21 feet to the point or place of BEGINNING.

Exhibit A-1

Description of the Original Parcel

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

BEGINNING at a point in the westerly line of Queens Plaza South (formerly known as Bridge Plaza South) distant 139.08 feet southerly from the corner formed by the intersection of the southerly line of 28 Street with the westerly line of Queens Plaza South;

RUNNING THENCE southwesterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 45.19 feet;

RUNNING THENCE southeasterly, forming an interior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the westerly line of Queens Plaza South, a distance of 57.76 feet;

RUNNING THENCE southwesterly, forming an exterior angle of 84 degrees 45 minutes 22 seconds with the previous course and parallel with the southerly line of 28 Street, a distance of 97.50 feet to a point of curvature;

RUNNING THENCE northwesterly, along an arc bearing to the right having a radius of 133.85 feet, a distance of 165.87 feet to a point of tangency;

RUNNING THENCE northwesterly, tangent to the previous course, a distance of 69.53 feet;

RUNNING THENCE northeasterly, forming an exterior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 60.84 feet;

RUNNING THENCE westerly, forming an interior angle of 71 degrees 00 minutes 00 seconds with the previous course, a distance of 42.31 feet to the easterly line of 28 Street;

RUNNING THENCE southerly along 28 Street, forming an interior angle of 109 degrees 00 minutes 00 seconds with the previous course, a distance of 54.88 feet to the corner formed by the intersection of 28 Street & 42 Road;

RUNNING THENCE southeasterly along 42 Road, a distance of 247.69 feet to the corner formed by the intersection of 42 Road and Jackson Avenue;

RUNNING THENCE northeasterly along Jackson Avenue, a distance of 402.80 feet to the corner formed by the intersection of Jackson Avenue and Queens Plaza South;

RUNNING THENCE northerly along Queens Plaza South, a distance of 161.45 feet;

RUNNING THENCE northwesterly along Queens Plaza South and forming an interior angle of 145 degrees 29.7 seconds, a distance of 136.82 feet to the point or place of **BEGINNING**;

[BEING AND INTENDED TO BE a portion of the same premises conveyed to Grantor by deed from NYCEDC dated June 9, 2011, recorded June 17, 2011 in the Queens County Clerk's Office as CRFN 2011000216978, as corrected by correction deed from Grantor to Grantor dated as of _____ ___, 2016, recorded _____ ___, 2016 as CRFN _____.]

Schedule 1

Certain Defined Terms

"City Planning" means the City Planning Commission of The City of New York, the Chair of the City Planning Commission of The City of New York, or the City's Department of City Planning, as the context requires.

"Core and Shell" means, with respect to the Building, all improvements necessary to obtain a core and shell certificate (or certificates) of occupancy or completion or a zero occupancy certificate (or certificates) of occupancy or completion for such Building.

"Development Parcel" means the Land together with the Original Parcel.

"Original Parcel" means that certain lot, piece or parcel of land in the Borough of Queens, all as more particularly described in Exhibit A-1 – "Description of the Original Parcel", together with all easements, rights of way, privileges, benefits, appurtenances, hereditaments, strips, gaps and any and all other rights and interests now or hereafter appurtenant, beneficial or pertaining thereto.

"Premises" means, for the purposes of the definition of "ULURP Approval", collectively: (i) all that land located on Block 420, Lot 1 in the Borough of Queens, New York, as depicted on the New York City Tax Map in effect as of October 7, 2008, and (ii) any and all structures or other improvements and appurtenances of every kind and description now existing on the land described in the foregoing clause (i) or any portion thereof including, but not limited to, landscaping and any and all alterations thereto, replacements thereof, and substitutions therefor.

"Project" means Construction and the leasing and operation of the Property and the Building.

"Schematics" means schematic drawings for the construction of the Building submitted to NYCEDC by Grantee on December 28, 2015. A list of the drawings comprising the Schematics is attached hereto as Schedule 1-A.

"Stabilization" means, for the Building, the earlier point in time at which either (i) the Grantee (or an affiliate) is entitled to collect rent from subtenants with respect to 80% of the rentable square footage of office space in the Building or (ii) the Grantee (or an affiliate) has delivered possession of not less than 80% in the aggregate of the rentable square footage of office space to tenants of the Building.

"Substantial Completion" and "Substantially Complete" mean that the governmental authority having applicable jurisdiction over the Property has issued a temporary or permanent zero occupancy certificate (or certificates) of occupancy or completion or a temporary or permanent core and shell certificate (or certificates) of occupancy or completion, as the case may be, for the core and shell of the Building.

"ULURP" means the City's Uniform Land Use Review Procedure, as set forth in Section 197(c) and (d) of the City Charter, as it may be amended, modified, replaced or superseded from time to time.

"ULURP Approval" means the approval pursuant to ULURP by City Planning on May 23, 2001 (Calendar No. 18, ULURP No. C 010260 PPQ) and the New York City Council on July 26, 2001 (Reso. No. 2026) for the disposition of the Premises, as may have been or may be modified from time to time.

"Unavoidable Delay" means delays from any and all causes beyond Grantee's reasonable control, including, without limitation, delays resulting from actions of NYCEDC (provided such are not themselves the result of actions by Grantee), governmental restrictions, labor disputes (including strikes, slowdowns and similar labor problems), accident, mechanical breakdown, shortages or inability to obtain labor, fuel, steam, water, electricity, equipment or materials (for which no substitute is readily available at a comparable price), acts of God (including extraordinary severe weather conditions), removal of Hazardous Materials, enemy action, acts of terrorism, civil commotion, fire or other casualty (with respect to Substantial Completion of the Building as required hereunder, an Unavoidable Delay shall include, in addition to the delays listed above, any other delay of which Grantee has given NYCEDC notice and to which NYCEDC consents, in its sole discretion). In addition, if Grantee determines that it would be reasonably prudent to delay taking any further action in furtherance of the Project or any part thereof because of the commencement and pendency of any action, suit or proceeding (including all appeals in connection therewith) contesting the Project or any portion thereof or the legality or validity of any action taken by any governmental authority in connection therewith (in each instance, whether or not Grantee is enjoined or otherwise restrained from taking any action with respect to all or any part of the Project), then Grantee shall notify NYCEDC of such determination, stating in reasonable detail its reasons therefor, and any attendant or resultant delay shall be an Unavoidable Delay, provided Grantee (if Grantee is a party defendant) shall have commenced contesting or defending, and shall be diligently contesting or prosecuting the defense of such action, suit or proceeding, and provided further that the period of Unavoidable Delay shall not be deemed to have commenced until Grantee shall have so notified NYCEDC of such determination.

Schedule 1-A

Drawings Comprising the Schematics

G-000 Drawing Index
G-001 Scope of Work Summary
G-002 LEED Summary
G-003 Area Summary Chart
G-004 Images
Z-000 Zoning Summary
Z-001 Height & Setback and Street Wall Locations Requirements
Z-002 Rear Yard
Z-005 Site Survey
A-000 Site Plan
A-001 Cellar Plan
A-002 Ground Floor Plan
A-003 Parking P2 Level Floor Plan
A-004 2nd Floor Plan
A-005 3rd Floor Plan
A-006 4th Floor Plan
A-007 5th Floor Plan
A-008 6th Floor Plan
A-009 7th Floor Plan
A-010 8th Floor Plan
A-011 9th Floor Plan
A-012 10th Floor Plan
A-013 11th Floor Plan
A-014 12th Floor Plan
A-015 13th Floor Plan
A-016 14th Floor Plan
A-017 15th Floor Plan
A-018 16th Floor Plan
A-019 17th Floor Plan
A-020 18th Floor Plan
A-021 19th Floor Plan
A-022 20th Floor Plan
A-023 21st Floor Plan
A-024 22nd Floor Plan
A-025 23rd Floor Plan
A-026 24th Floor Plan
A-027 25th Floor Plan
A-028 26th Floor Plan
A-029 27th Floor Plan
A-030 Mechanical Penthouse Level 28
A-031 Mechanical Penthouse Level 29

A-032 Mechanical Penthouse Level 30
A-033 Roof Plan
A-040 Building Elevation – South
A-041 Building Elevation – West
A-042 Building Elevation – East
A-045 Building Section
A-046 Building Section
A-047 Building Section
A-048 Building Section
A-049 Building Section
A-050 Cellar Core Plan
A-051 Lobby Core Plan
A-052 2nd – 4th Floor Core Plan
A-053 5th – 13th Floor Core Plan
A-054 14th Floor Core Plan
A-055 15th Floor Core Plan
A-056 16th – 27th Floor Core Plan
A-057 Mechanical PH 28th Floor Core Plan
A-058 Mechanical PH 29th Floor Core Plan
A-059 Mechanical PH 30th Floor Core Plan
A-101 Exterior Wall Plan, Section and Elevation
A-102 Exterior Wall Plan, Section and Elevation
A-103 Exterior Wall Plan, Section and Elevation
A-250 Partition Types and Hardware Schedule
S-001 Schematic Design
S-002 Schematic Design Plan Overview
S-003 Schematic Design Foundation Sections
MEP-001 MEP Building Design Criteria & System Description Sheet #1
MEP-002 MEP Building Design Criteria & System Description Sheet #2
MEP-003 MEP Building Design Criteria & System Description Sheet #3

Schedule 2

Mortgagee Protections

This Schedule 2 is incorporated by reference into the Indenture as if fully set forth therein.

(A) Notwithstanding anything to the contrary contained in this Indenture, NYCEDC shall give to each holder of a Capital Mortgage (each, a "Capital Mortgagee"), at the address of the Capital Mortgagee stated in a written notice given by the Capital Mortgagee to NYCEDC in the manner set forth herein for the giving of notices to NYCEDC, a copy of each notice of default of Grantee of the restrictions, covenants or provisions set forth in this Indenture at the same time as it gives notice of such default to Grantee. The Capital Mortgagee shall, in the case of any such default, have a period of ninety (90) days more than is given Grantee, under the provisions of this Indenture, to remedy such default or cause it to be remedied or to proceed as provided in paragraph (C) below. At any time after commencing to proceed in the manner described in paragraph (C) below, the Capital Mortgagee may notify NYCEDC, in writing, that it has relinquished possession of the Property or that it will not institute proceedings relating to a foreclosure sale, other sale or deed in lieu of foreclosure effectuated pursuant to an enforcement of any of the rights and remedies of the Capital Mortgagee (each, an "Enforcement Sale") or, if such proceedings shall have been commenced, that it has discontinued such proceedings prior to any person, trust or entity acquiring title to the Property as a result of such proceeding, and, in either event, upon the giving of such notice by the Capital Mortgagee, the Capital Mortgagee shall have no further extension of cure period under paragraph (C) below, and/or obligation in connection therewith, and NYCEDC shall have the unrestricted right to exercise its rights and remedies provided under this Indenture.

(B) NYCEDC shall accept performance by the Capital Mortgagee of any term, covenant, condition or agreement on Grantee's part to be performed hereunder with the same force and effect as though performed by Grantee.

(C) No default shall be deemed to have occurred under this Indenture if, during the applicable periods set forth in this Indenture:

(i) In the case of a default that is curable without possession of the Property, the Capital Mortgagee cured or caused to be cured such default within the period provided in paragraph (A) above after NYCEDC's giving of notice of such default to such Capital Mortgagee; or

(ii) In the case of a default where possession of the Property is required in order to cure such default, the Capital Mortgagee shall proceed, within one hundred twenty (120) days after the Capital Mortgagee shall have received notice of the default from NYCEDC, to institute proceedings relating to an Enforcement Sale, and shall have notified NYCEDC that it is instituting such proceedings and shall prosecute such

proceedings in good faith and with reasonable diligence to obtain title and possession of the Property and, upon obtaining title to and possession of the Property (for the purposes hereof, title to and possession of the Property shall not be considered to have been obtained by such Capital Mortgagee solely by virtue of there being a court-appointed receiver for the Property or any part thereof), shall commence to cure the default within the period hereinafter provided, and prosecute such cure to completion with reasonable diligence, subject to such Capital Mortgagee's rights under the last sentence of paragraph (A) above. It is agreed that if proceedings relating to an Enforcement Sale shall be commenced or there shall be a transfer of title to the Property in lieu of an Enforcement Sale (regardless of whether the proceedings relating to the Enforcement Sale shall have been commenced) the time periods set forth for commencement of construction and achievement of Substantial Completion of construction set forth in the first paragraph of this Indenture shall be modified as follows:

If any person unaffiliated with Grantee ("New Owner") shall have acquired title to the Property or any part thereof by an Enforcement Sale of a Capital Mortgage or the transfer of title in lieu of an Enforcement Sale of a Capital Mortgage, or who acquired title to the Property subsequent to such an Enforcement Sale or transfer of title in lieu of an Enforcement Sale, then, regardless of whether any prior owner of such Property shall have commenced any construction on the Property, (i) such New Owner shall have a period of nine (9) months after the date of the original Enforcement Sale or transfer of title in lieu of an Enforcement Sale to commence the initial construction of the Project, or if construction shall have been previously commenced by a prior owner of such Property, to re-commence construction of the Project, and (ii) a period of forty-two (42) months after the date of the original Enforcement Sale or transfer of title in lieu of an Enforcement Sale in which to achieve Substantial Completion of the Project. Both clauses (i) and (ii) above shall be subject to Unavoidable Delays.

(D) In no event shall the Capital Mortgagee have any liability to NYCEDC or otherwise by reason of such Capital Mortgagee's failing to cure any default by Grantee, its successor or assigns, under the terms of this Indenture within any applicable cure period, regardless of whether such cure period shall have been extended pursuant to any of the provisions of this Schedule 2, provided that this Schedule 2 shall not limit or in any way affect the right of NYCEDC to exercise its rights set forth in this Indenture to acquire title to the Property (subject to the lien of such Capital Mortgage) if such default is not cured within the applicable cure period, as the same may be extended pursuant to the provisions of this Schedule 2 (and paragraph (C) of this Schedule 2 in particular).

(E) Upon the transfer of the Property by any New Owner in accordance with this Indenture, such transferor shall be deemed to be released from all rights, obligations and requirements set forth in this Indenture, and the transferee shall be deemed to have assumed and agreed to comply with all the provisions of this Indenture, it being understood and agreed, that, provided such transfer is in accordance with the provisions of this Indenture, the owner of the Property shall be liable for compliance with this Indenture during, and only during, the period of his, her or its ownership of the Property, and this covenant shall run with the land.

Schedule 1

Certain Defined Terms

"City Planning" means the City Planning Commission of The City of New York, the Chair of the City Planning Commission of The City of New York, or the City's Department of City Planning, as the context requires.

"Core and Shell" means, with respect to the Building, all improvements necessary to obtain a core and shell certificate (or certificates) of occupancy or completion or a zero occupancy certificate (or certificates) of occupancy or completion for such Building.

"Development Parcel" means the Land together with the Original Parcel.

"Original Parcel" means that certain lot, piece or parcel of land in the Borough of Queens, all as more particularly described in Exhibit A-1 – "Description of the Original Parcel", together with all easements, rights of way, privileges, benefits, appurtenances, hereditaments, strips, gaps and any and all other rights and interests now or hereafter appurtenant, beneficial or pertaining thereto.

"Premises" means, for the purposes of the definition of "ULURP Approval", collectively: (i) all that land located on Block 420, Lot 1 in the Borough of Queens, New York, as depicted on the New York City Tax Map in effect as of October 7, 2008, and (ii) any and all structures or other improvements and appurtenances of every kind and description now existing on the land described in the foregoing clause (i) or any portion thereof including, but not limited to, landscaping and any and all alterations thereto, replacements thereof, and substitutions therefor.

"Project" means Construction and the leasing and operation of the Property and the Building.

"Schematics" means schematic drawings for the construction of the Building submitted to NYCEDC by Grantee on December 28, 2015. A list of the drawings comprising the Schematics is attached hereto as Schedule 1-A.

"Stabilization" means, for the Building, the earlier point in time at which either (i) the Grantee (or an affiliate) is entitled to collect rent from subtenants with respect to 80% of the rentable square footage of office space in the Building or (ii) the Grantee (or an affiliate) has delivered possession of not less than 80% in the aggregate of the rentable square footage of office space to tenants of the Building.

"Substantial Completion" and "Substantially Complete" mean that the governmental authority having applicable jurisdiction over the Property has issued a temporary or permanent zero occupancy certificate (or certificates) of occupancy or completion or a temporary or permanent core and shell certificate (or certificates) of occupancy or completion, as the case may be, for the core and shell of the Building.

"ULURP" means the City's Uniform Land Use Review Procedure, as set forth in Section 197(c) and (d) of the City Charter, as it may be amended, modified, replaced or superseded from time to time.

"ULURP Approval" means the approval pursuant to ULURP by City Planning on May 23, 2001 (Calendar No. 18, ULURP No. C 010260 PPQ) and the New York City Council on July 26, 2001 (Reso. No. 2026) for the disposition of the Premises, as may have been or may be modified from time to time.

"Unavoidable Delay" means delays from any and all causes beyond Grantee's reasonable control, including, without limitation, delays resulting from actions of NYCEDC (provided such are not themselves the result of actions by Grantee), governmental restrictions, labor disputes (including strikes, slowdowns and similar labor problems), accident, mechanical breakdown, shortages or inability to obtain labor, fuel, steam, water, electricity, equipment or materials (for which no substitute is readily available at a comparable price), acts of God (including extraordinary severe weather conditions), removal of Hazardous Materials, enemy action, acts of terrorism, civil commotion, fire or other casualty (with respect to Substantial Completion of the Building as required hereunder, an Unavoidable Delay shall include, in addition to the delays listed above, any other delay of which Grantee has given NYCEDC notice and to which NYCEDC consents, in its sole discretion). In addition, if Grantee determines that it would be reasonably prudent to delay taking any further action in furtherance of the Project or any part thereof because of the commencement and pendency of any action, suit or proceeding (including all appeals in connection therewith) contesting the Project or any portion thereof or the legality or validity of any action taken by any governmental authority in connection therewith (in each instance, whether or not Grantee is enjoined or otherwise restrained from taking any action with respect to all or any part of the Project), then Grantee shall notify NYCEDC of such determination, stating in reasonable detail its reasons therefor, and any attendant or resultant delay shall be an Unavoidable Delay, provided Grantee (if Grantee is a party defendant) shall have commenced contesting or defending, and shall be diligently contesting or prosecuting the defense of such action, suit or proceeding, and provided further that the period of Unavoidable Delay shall not be deemed to have commenced until Grantee shall have so notified NYCEDC of such determination.

Schedule 1-A

Drawings Comprising the Schematics

G-000 Drawing Index
G-001 Scope of Work Summary
G-002 LEED Summary
G-003 Area Summary Chart
G-004 Images
Z-000 Zoning Summary
Z-001 Height & Setback and Street Wall Locations Requirements
Z-002 Rear Yard
Z-005 Site Survey
A-000 Site Plan
A-001 Cellar Plan
A-002 Ground Floor Plan
A-003 Parking P2 Level Floor Plan
A-004 2nd Floor Plan
A-005 3rd Floor Plan
A-006 4th Floor Plan
A-007 5th Floor Plan
A-008 6th Floor Plan
A-009 7th Floor Plan
A-010 8th Floor Plan
A-011 9th Floor Plan
A-012 10th Floor Plan
A-013 11th Floor Plan
A-014 12th Floor Plan
A-015 13th Floor Plan
A-016 14th Floor Plan
A-017 15th Floor Plan
A-018 16th Floor Plan
A-019 17th Floor Plan
A-020 18th Floor Plan
A-021 19th Floor Plan
A-022 20th Floor Plan
A-023 21st Floor Plan
A-024 22nd Floor Plan
A-025 23rd Floor Plan
A-026 24th Floor Plan
A-027 25th Floor Plan
A-028 26th Floor Plan
A-029 27th Floor Plan
A-030 Mechanical Penthouse Level 28
A-031 Mechanical Penthouse Level 29

A-032 Mechanical Penthouse Level 30
A-033 Roof Plan
A-040 Building Elevation – South
A-041 Building Elevation – West
A-042 Building Elevation – East
A-045 Building Section
A-046 Building Section
A-047 Building Section
A-048 Building Section
A-049 Building Section
A-050 Cellar Core Plan
A-051 Lobby Core Plan
A-052 2nd – 4th Floor Core Plan
A-053 5th – 13th Floor Core Plan
A-054 14th Floor Core Plan
A-055 15th Floor Core Plan
A-056 16th – 27th Floor Core Plan
A-057 Mechanical PH 28th Floor Core Plan
A-058 Mechanical PH 29th Floor Core Plan
A-059 Mechanical PH 30th Floor Core Plan
A-101 Exterior Wall Plan, Section and Elevation
A-102 Exterior Wall Plan, Section and Elevation
A-103 Exterior Wall Plan, Section and Elevation
A-250 Partition Types and Hardware Schedule
S-001 Schematic Design
S-002 Schematic Design Plan Overview
S-003 Schematic Design Foundation Sections
MEP-001 MEP Building Design Criteria & System Description Sheet #1
MEP-002 MEP Building Design Criteria & System Description Sheet #2
MEP-003 MEP Building Design Criteria & System Description Sheet #3

Schedule 2

Mortgagee Protections

This Schedule 2 is incorporated by reference into the Indenture as if fully set forth therein.

(A) Notwithstanding anything to the contrary contained in this Indenture, NYCEDC shall give to each holder of a Capital Mortgage (each, a "Capital Mortgagee"), at the address of the Capital Mortgagee stated in a written notice given by the Capital Mortgagee to NYCEDC in the manner set forth herein for the giving of notices to NYCEDC, a copy of each notice of default of Grantee of the restrictions, covenants or provisions set forth in this Indenture at the same time as it gives notice of such default to Grantee. The Capital Mortgagee shall, in the case of any such default, have a period of ninety (90) days more than is given Grantee, under the provisions of this Indenture, to remedy such default or cause it to be remedied or to proceed as provided in paragraph (C) below. At any time after commencing to proceed in the manner described in paragraph (C) below, the Capital Mortgagee may notify NYCEDC, in writing, that it has relinquished possession of the Property or that it will not institute proceedings relating to a foreclosure sale, other sale or deed in lieu of foreclosure effectuated pursuant to an enforcement of any of the rights and remedies of the Capital Mortgagee (each, an "Enforcement Sale") or, if such proceedings shall have been commenced, that it has discontinued such proceedings prior to any person, trust or entity acquiring title to the Property as a result of such proceeding, and, in either event, upon the giving of such notice by the Capital Mortgagee, the Capital Mortgagee shall have no further extension of cure period under paragraph (C) below, and/or obligation in connection therewith, and NYCEDC shall have the unrestricted right to exercise its rights and remedies provided under this Indenture.

(B) NYCEDC shall accept performance by the Capital Mortgagee of any term, covenant, condition or agreement on Grantee's part to be performed hereunder with the same force and effect as though performed by Grantee.

(C) No default shall be deemed to have occurred under this Indenture if, during the applicable periods set forth in this Indenture:

(i) In the case of a default that is curable without possession of the Property, the Capital Mortgagee cured or caused to be cured such default within the period provided in paragraph (A) above after NYCEDC's giving of notice of such default to such Capital Mortgagee; or

(ii) In the case of a default where possession of the Property is required in order to cure such default, the Capital Mortgagee shall proceed, within one hundred twenty (120) days after the Capital Mortgagee shall have received notice of the default from NYCEDC, to institute proceedings relating to an Enforcement Sale, and shall have notified NYCEDC that it is instituting such proceedings and shall prosecute such

proceedings in good faith and with reasonable diligence to obtain title and possession of the Property and, upon obtaining title to and possession of the Property (for the purposes hereof, title to and possession of the Property shall not be considered to have been obtained by such Capital Mortgagee solely by virtue of there being a court-appointed receiver for the Property or any part thereof), shall commence to cure the default within the period hereinafter provided, and prosecute such cure to completion with reasonable diligence, subject to such Capital Mortgagee's rights under the last sentence of paragraph (A) above. It is agreed that if proceedings relating to an Enforcement Sale shall be commenced or there shall be a transfer of title to the Property in lieu of an Enforcement Sale (regardless of whether the proceedings relating to the Enforcement Sale shall have been commenced) the time periods set forth for commencement of construction and achievement of Substantial Completion of construction set forth in the first paragraph of this Indenture shall be modified as follows:

If any person unaffiliated with Grantee ("New Owner") shall have acquired title to the Property or any part thereof by an Enforcement Sale of a Capital Mortgage or the transfer of title in lieu of an Enforcement Sale of a Capital Mortgage, or who acquired title to the Property subsequent to such an Enforcement Sale or transfer of title in lieu of an Enforcement Sale, then, regardless of whether any prior owner of such Property shall have commenced any construction on the Property, (i) such New Owner shall have a period of nine (9) months after the date of the original Enforcement Sale or transfer of title in lieu of an Enforcement Sale to commence the initial construction of the Project, or if construction shall have been previously commenced by a prior owner of such Property, to re-commence construction of the Project, and (ii) a period of forty-two (42) months after the date of the original Enforcement Sale or transfer of title in lieu of an Enforcement Sale in which to achieve Substantial Completion of the Project. Both clauses (i) and (ii) above shall be subject to Unavoidable Delays.

(D) In no event shall the Capital Mortgagee have any liability to NYCEDC or otherwise by reason of such Capital Mortgagee's failing to cure any default by Grantee, its successor or assigns, under the terms of this Indenture within any applicable cure period, regardless of whether such cure period shall have been extended pursuant to any of the provisions of this Schedule 2, provided that this Schedule 2 shall not limit or in any way affect the right of NYCEDC to exercise its rights set forth in this Indenture to acquire title to the Property (subject to the lien of such Capital Mortgage) if such default is not cured within the applicable cure period, as the same may be extended pursuant to the provisions of this Schedule 2 (and paragraph (C) of this Schedule 2 in particular).

(E) Upon the transfer of the Property by any New Owner in accordance with this Indenture, such transferor shall be deemed to be released from all rights, obligations and requirements set forth in this Indenture, and the transferee shall be deemed to have assumed and agreed to comply with all the provisions of this Indenture, it being understood and agreed, that, provided such transfer is in accordance with the provisions of this Indenture, the owner of the Property shall be liable for compliance with this Indenture during, and only during, the period of his, her or its ownership of the Property, and this covenant shall run with the land.