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NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
as sublessor

AND

JQ III ASSOCIATES, LLC  
as sublessee

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SUBLEASE AGREEMENT

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DATED AS OF AUGUST 1, 2015

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ADDRESS: 300 Jericho Quadrangle  
Jericho  
VILLAGE: --  
TOWN: Oyster Bay  
COUNTY: Nassau  
STATE: New York  
SECTION: 17  
BLOCK: 11  
LOTS: 50

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Prepared By:

Phillips Lytle LLP  
1305 Franklin Avenue, Suite 200  
Garden City, NY 11530  
Attention: Paul V. O'Brien, Esq.

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## **SUBLEASE AGREEMENT**

THIS SUBLEASE AGREEMENT dated as of August 1, 2015 (this "Lease") by and between the NASSAU COUNTY 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 an office at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Agency"), and JQ III ASSOCIATES, LLC, a limited liability company duly organized and existing under the laws of the State of New York, having an office at 100 Jericho Quadrangle, Jericho, NY 11753 (the "Company").

### **WITNESSETH:**

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act, as in effect as of the date of this Lease, being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company and PUBLISHERS CLEARING HOUSE, LLC, a limited liability company organized and existing under the laws of the State of New York ("Publishers" and together with the Company, the "Applicants"), submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 29.94 acre parcel of land located at 300 Jericho Quadrangle, Jericho, Town of Oyster Bay, Nassau County, New York (Section: 17; Block: 11; Lot: 50) (the "Land"), (2) the renovation of the existing approximately 305,000 square foot building (the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment"), all of the foregoing for use by the Company as a multi-tenant office facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); (C) the lease (with an obligation to purchase), license or sale of the Project Facility to the Company or such other entity

as may be designated by the Company and agreed upon by the Agency; and (D) the sublease of a portion of the Project Facility by the Company (or such other entity designated by the Company and agreed upon by the Agency) to Publishers; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on March 7, 2015 to the chief executive officer of Nassau County, New York and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearing to be published on March 7, 2015 in the Nassau edition of *Newsday*, a newspaper of general circulation available to residents of the County of Nassau, New York; (C) caused the Public Hearing to be conducted on March 23, 2015 at 10:00 a.m., local time, at Oyster Bay Community Center, 59 Church Street, Oyster Bay, Town of Oyster Bay, Nassau County, New York; and (D) caused a report of the Public Hearing (the "Report") to be prepared which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, (A) the Executive Director of the Agency caused notice of a meeting of the Agency (the "IDA Meeting") with respect to the proposed deviation from the Agency's uniform tax exemption policy and guidelines to be mailed on June 12, 2015 to the chief executive officer of each affected tax jurisdiction; and (B) the Agency conducted the IDA Meeting on June 30, 2015 and reviewed any written comments or correspondence received from the affected tax jurisdictions at or before the IDA Meeting regarding the proposed deviation from the Agency's uniform tax exemption policy and approved the proposed deviation; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the Agency reviewed the environmental assessment forms and other materials submitted by the Applicants and made any necessary comments to the members of the Agency, and by resolution of the members of the Agency adopted on June 30, 2015, the Agency determined that the Project will not have a significant adverse environmental impact and that an environmental impact statement will not be prepared; and

WHEREAS, by resolution adopted by the members of the Agency on June 30, 2015 (the "Authorizing Resolution"), the Agency, following a review of the Report, determined to proceed with the Project, to grant the Financial Assistance and to enter into the "straight lease transaction" (as such quoted term is defined in the Act) contemplated by this Lease and the other Transaction Documents (as hereinafter defined); and

WHEREAS, the Agency proposes to appoint the Company as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility as set forth in this Lease and to sublease the Project Facility to the Company, and the Company desires to act as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility as set forth in this Lease and to sublease the Project Facility from the

Agency, all pursuant to the terms and conditions hereinafter set forth in this Lease and in the other Transaction Documents; and

WHEREAS, the Applicants proposed that Publishers be a sub-sublessee of a portion of the Project Facility, and the Agency has approved such proposal; and

WHEREAS, the acquisition of an interest in the Project Facility, the straight lease of the Project Facility, and the granting of the Financial Assistance by the Agency to the Company are for proper purposes, including, without limitation, the advancement of the job opportunities, health, general prosperity and economic welfare of the inhabitants of the State of New York and the prevention of unemployment and economic deterioration pursuant to the provisions of the Act; and

WHEREAS, the granting of the Financial Assistance by the Agency to the Applicants has been determined by the Agency to be necessary to induce the Applicants to proceed with the Project; and

WHEREAS, immediately prior to the execution and delivery of this Lease, the Company will execute and deliver or cause to be executed and delivered to the Agency (A) a certain company lease agreement of even date herewith (the "Company Lease") between the Company and the Agency, which conveys to the Agency a leasehold interest in and to the Premises (as hereinafter defined), and (B) a bill of sale dated the Closing Date (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of the Company in and to the Equipment; and

WHEREAS, pursuant to a certain Payment in Lieu of Taxes Agreement of even date herewith between the Company and the Agency (the "PILOT Agreement"), the Company has agreed to make certain payments in lieu of real property taxes with respect to the Premises, and such obligation is secured by a Mortgage and Assignment of Leases and Rents of even date herewith (the "PILOT Mortgage") from the Company and the Agency, as mortgagor, to the County of Nassau, as mortgagee (the "PILOT Mortgagee"), pursuant to which the Agency and the Company grant a first lien mortgage (except as otherwise set forth therein) on the Premises to the PILOT Mortgagee;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

## ARTICLE I DEFINITIONS

SECTION 1.1 DEFINITIONS. The following words and terms used in this Lease shall have the respective meanings set forth below, unless the context or use indicates another or different meaning or intent:

"Act" shall have the meaning assigned to such term in the recitals to this Lease.



“Administrative Fee” shall have the meaning assigned to such term in Section 5.3(B) of this Lease.

“Affiliate” of a Person shall mean a Person who directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, such Person. The term “control” means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, or (ii) the ownership, either directly or indirectly, of at least fifty-one percent (51%) of the voting stock or other equity interest of such Person.

“Agency” means (A) the Nassau County Industrial Development Agency and its successors and assigns, and (B) any public benefit corporation or other public corporation resulting from or surviving any consolidation or merger to which the Nassau County Industrial Development Agency, or its successors or assigns, may be a party.

“Annual Fee” shall have the meaning assigned to such term in Section 5.3(C) of this Lease.

“Applicable Law” or “Applicable Laws” means, individually or collectively as the context may require, all current and future statutes, codes, laws, acts, ordinances, treaties, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, determinations and requirements, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of the foregoing to be determined both as if the Agency were the owner of an interest in the Project Facility and as if the Company and not the Agency were the owner of an interest in the Project Facility), including but not limited to (1) applicable health, building, zoning, use, rent, accessibility, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, (3) judgments, decrees, orders or injunctions issued by any court or other judicial or quasi-judicial Governmental Authority, and (4) applicable covenants and restrictions relating in any way to the Project Facility.

“Applicants” shall have the meaning assigned to such term in the recitals to this Lease.

“Application” shall have the meaning assigned to such term in the recitals to this Lease.

“Authorizing Resolution” shall have the meaning assigned to such term in the recitals to this Lease.

“Authorized Representative” means the Person or Persons at the time designated to act on behalf of the Agency, the Company, a Guarantor (if applicable), or a Sublessee, as the case may be, by written certificate furnished to the Agency, the Company, a Guarantor, or a Sublessee, as the case may be, containing the specimen signature of each such Person and signed on behalf of (A) the Agency by its Chairman, Vice-Chairman, Secretary, Executive Director, Administrative Director or such other Person as may be authorized by resolution of the members of the Agency

to act on behalf of the Agency, and (B) the Company, a Guarantor or a Sublessee by its President or any Vice President, if a corporation, or a member or a manager, if a limited liability company, or a general partner, if a partnership, or such other Person as may be authorized in writing by the members of such limited liability company or by the board of directors of such corporation or by the general partner of such partners, to act on behalf of the Company, a Guarantor, or a Sublessee, as the case may be.

“Bank” shall mean Guardian Life Insurance Company of America, a New York corporation, together with its successors and/or assigns that are banks, financial institutions or other lenders, provided that the Agency is given notice of any such succession or assignment in accordance with Section 12.1 of this Lease.

“Bank Loan” shall mean the loan(s) made by the Bank to the Company and secured by the Bank Mortgage.

“Bank Mortgage” shall mean those certain mortgages set forth in Schedule B to the Title Policy.

“Bank Note” shall mean the promissory note(s) evidencing the Bank Loan.

“Bill of Sale to Agency” shall have the meaning assigned to such term in the recitals to this Lease.

“Bill of Sale to Company” means the bill of sale from the Agency to the Company, pursuant to which the Agency conveys to the Company all of the Agency’s interest in the Equipment, substantially in the form attached as Exhibit D to this Lease.

“Building” shall have the meaning assigned to such term in the recitals to this Lease.

“Business Day” means a day on which banks located in the County are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

“Closing” means the closing at which this Lease and the other Transaction Documents are executed and delivered by the Company, the Agency and the other parties thereto.

“Closing Date” means the date of the Closing.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

“Collateral” shall have the meaning assigned to such term in Section 5.5 of this Lease.

“Commissioner” means the Commissioner of Taxation and Finance of the State of New York.

“Company” means JQ III Associates, LLC, a limited liability company duly organized and existing under the laws of the State of New York, and its successors and assigns, to the extent permitted pursuant to this Lease.

“Company Lease” shall have the meaning assigned to such term in the recitals to this Lease.

“Completion Date” means such date as shall be certified by the Company to the Agency (and accepted by the Agency in its reasonable discretion) as the date of completion of the Project pursuant to Section 4.2 of this Lease, or such earlier date as the Company shall notify the Agency as being the date of completion of the Project (subject to acceptance thereof by the Agency in its reasonable discretion).

“Compliance Report” shall have the meaning assigned to such term in Section 8.12 of this Lease.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any Governmental Authority.

“County” means the County of Nassau, New York.

“Default Interest Rate” means a rate of interest equal to eighteen percent (18%) per annum or the maximum rate permitted by applicable law, whichever is less.

“Environmental Indemnification” means the Environmental Compliance and Indemnification Agreement of even date herewith from the Company and the Guarantors in favor of the Agency.

“Environmental Law” or “Environmental Laws” shall have the meaning assigned to such term in Section 3.3 of this Lease.

“Equipment” shall have the meaning assigned to such term in the recitals to this Lease and shall include all those materials, machinery, equipment, fixtures and furnishings intended to be acquired with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of this Lease, and such substitutions and replacements therefor as may be made from time to time pursuant to this Lease, including without limitation, all the Property described in Exhibit B attached to this Lease. “Equipment” shall not include: (i) inventory, (ii) rolling stock, (iii) any item of personalty having a useful life of less than one (1) year or which shall not constitute a tangible capital asset, (iv) plants, shrubs, trees, flowers, lawns or plants, (v) fine art or other similar decorative items, or (vi) motor vehicles, including any cars, trucks, vans or buses, that are licensed by the Department of Motor Vehicles or similar agency for use on public highways or streets.

“Event of Default” means, with respect to any particular Transaction Document, any event specified as an Event of Default pursuant to the provisions thereof.

“Financial Assistance” shall have the meaning assigned to such term in the recitals to this Lease.

“Governmental Authority” means the United States of America, the State, any other state, the County, any political subdivision of any of the foregoing, and any court, tribunal, arbitrator,

mediator, agency, department, commission, board, bureau, authority or instrumentality of any of them.

“Gross Proceeds” means one hundred percent (100%) of the proceeds of the transaction with respect to which such term is used, including, but not limited to, the settlement of any insurance or Condemnation award.

“Guarantor” or “Guarantors” means We’re Associates Company, a New York general partnership.

“Guaranty” means the Guaranty of even date herewith from the Guarantors to the Agency.

“Hazardous Materials” means all hazardous materials including, without limitation, any explosives, radioactive materials, radon, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, lead based paints, petroleum, petroleum products, methane, hazardous materials, hazardous chemicals, hazardous wastes, extremely hazardous wastes, restricted hazardous wastes, hazardous or toxic substances, toxic pollutants, hazardous air pollutants, pollutants, contaminants, toxic chemicals, toxics, pesticides or related materials as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.) the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, et seq.), Articles 15 or 27 of the New York State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation of any Governmental Authority having jurisdiction.

“IDA Meeting” shall have the meaning assigned to such term in the recitals to this Lease.

“Indebtedness” means (1) the monetary obligations of the Company to the Agency or to any of its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, under this Lease or any of the other Transaction Documents, and (2) all interest accrued on any of the foregoing.

“Land” shall have the meaning assigned to such term in the recitals to this Lease and is more particularly described in Exhibit A to this Lease.

“Lien” means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes or a judgment against the Company. The term “Lien” includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including, but not limited to, mechanics’, materialmen’s, landlord’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For

purposes of the Transaction Documents, a Person shall also be deemed to be the owner of any Property that it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Maximum Sales Tax Benefit” means \$1,425,900, which is the maximum aggregate amount of sales and use tax exemptions granted to the Company with respect to the renovation, installation and equipping of the Project Facility.

“Minimum Employment Requirement” shall have the meaning assigned to such term in Section 2.2 of this Lease.

“Net Proceeds” means so much of the Gross Proceeds with respect to which that term is used as remain after payment of all fees for services, expenses, costs and taxes (including attorneys’ fees) incurred in obtaining such Gross Proceeds.

“Permitted Encumbrances” means (A) utility, access and other easements, rights of way, restrictions, encroachments and exceptions that exist on the Closing Date and are identified on Schedule B to the Title Policy, (B) Liens for taxes not yet due and payable and other Liens for taxes, assessments and utility charges, to the extent permitted by this Lease, (C) any Lien or encumbrance on the Project Facility obtained through any Transaction Document, (D) any Lien or encumbrance requested by the Company in writing and consented to by the Agency, which consent may be granted or denied in the Agency’s sole and absolute discretion, and (E) the Bank Mortgage.

“Person” means an individual, partnership, limited liability company, corporation, trust, unincorporated organization or Governmental Authority.

“PILOT Agreement” shall have the meaning assigned to such term in the recitals to this Lease.

“PILOT Mortgage” shall have the meaning assigned to such term in the recitals to this Lease.

“PILOT Mortgagee” means the County, on behalf of itself and such other instrumentalities to which amounts shall be due and owing pursuant to the PILOT Agreement, and its successors and/or assigns under the PILOT Mortgage.

“Pre-Closing Leases” shall have the meaning assigned to such term in Section 2.2 of this Lease.

“Pre-Closing Sublessees” means, individually or collectively, as the context may require, the tenants under the Pre-Closing Leases as identified in Exhibit H attached hereto.

“Premises” means the Land, together with the Building and all buildings, structures and other improvements now or hereafter located thereon, and all fixtures and appurtenances and additions thereto and substitutions and replacements thereof, now or hereafter attached to or contained in or located on the Land; provided, however, that nothing in this definition shall

constitute the Agency's consent to the construction of any new building or structure thereon or the construction of an addition to any existing building or structure thereon.

"Prohibited Person" means (i) any Person (A) that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, unless such default or breach has been waived in writing by the Agency or the County, as the case may be, and (ii) any Person (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 (B) that directly or indirectly controls, is controlled by or is under common control with a Person 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.

"Project" means that project being undertaken by the Agency consisting only of (A) the acquisition of an interest in the Premises, (B) the interior renovation of the Building, all as more particularly described in Section 4.1 of this Lease, (C) the acquisition and installation of the Equipment, (D) the granting of the Financial Assistance, (E) the subleasing of the Project Facility to the Company, and (F) the sub-subleasing of approximately fifty five (55%) of the Project Facility to Publishers, all as more particularly described in the recitals to this Lease.

"Project Agreement" means that certain Project Agreement of even date herewith between the Agency and Publishers.

"Project Facility" shall have the meaning assigned to such term in the recitals to this Lease.

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible.

"Proposed Sublease" shall have the meaning assigned to such term in Section 9.3 of this Lease.

"Proposed Sublessee" shall have the meaning assigned to such term in Section 9.3 of this Lease.

"Public Hearing" shall have the meaning assigned to such term in the recitals to this Lease.

"Publishers" shall have the meaning assigned to such term in the recitals to this Lease.

"Quarterly Sales Tax Report" shall have the meaning assigned to such term in Section 8.12(C) of this Lease.

“Real Property Tax Exemption Form” shall have the meaning assigned to such term in Section 6.6 of this Lease.

“Recapture Event” shall have the meaning assigned to such term in Section 11.4 of this Lease.

“Recapture of Benefits” shall have the meaning assigned to such term in Section 11.4 of this Lease.

“Report” shall have the meaning assigned to such term in the recitals to this Lease.

“Sales Tax Agency Agreement” shall have the meaning assigned to such term in Section 8.12 of this Lease.

“Scheduled Completion Date” shall have the meaning assigned to such term in Section 4.2(A) of this Lease.

“SEQRA” shall have the meaning assigned to such term in the recitals to this Lease.

“Special Counsel” means the law firm of Phillips Lytle LLP, Garden City, New York, or such other attorney or firm of attorneys located in the State whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and who are acceptable to the Agency.

“State” means the State of New York.

“State Sales and Use Taxes” means sales and compensating use taxes and fees imposed by Article 28 or Article 28-A of the New York State Tax Law, but excluding such taxes imposed in a city by Section 1107 or Section 1108 of such Article 28.

“Stated Expiration Date” shall have the meaning assigned to such term in Section 5.2(B) of this Lease.

“Sub-Agent Agency Agreement” shall have the meaning assigned to such term in Section 8.12(H) of this Lease.

“Sublease Agreement” or “Sublease Agreements” means, individually or collectively, as the context may require, a Sub-Sublease Agreement between the Company, as sub-lessor, and a Sublessee, as sub-sublessee, approved by the Agency pursuant to Section 9.3 of this Lease, including, without limitation, the Pre-Closing Leases.

“Sublease Term Sheet” shall have the meaning assigned to such term in Section 9.3 of this Lease.

“Subleased Premises” shall have the meaning assigned to such term in Section 9.3 of this Lease.

“Sublessees” means, individually or collectively, as the context may require, each sub-tenant of all or any portion of the Project Facility pursuant to an Office Sublease (as defined in Section 9.3 of this Lease) or pursuant to a Proposed Sublease approved by the Agency pursuant to this Lease, including, without limitation, the Pre-Closing Sublessees.

“Taxing Entities” shall have the meaning assigned to such term in Section 6.6 of this Lease.

“Termination of Company Lease” means the termination of company lease agreement from the Agency to the Company, pursuant to which the Agency terminates the Company Lease, substantially in the form attached as Exhibit C to this Lease.

“Termination of Lease” means the termination of sublease agreement between the Company and the Agency, pursuant to which the Agency and the Company terminate this Lease, substantially in the form attached as Exhibit F to this Lease.

“Title Policy” shall have the meaning assigned to such term in Section 3.5 of this Lease.

“Transaction Documents” means the Company Lease, the Bill of Sale to Agency, the PILOT Agreement, the PILOT Mortgage, this Lease, the Guaranty, the Environmental Indemnification, the Sales Tax Agency Agreement, any Sub-Agent Agency Agreement and all other instruments, agreements, certificates and documents related thereto and executed in connection therewith, and any other instrument, agreement, certificate or document supplemental thereto.

“UCC” shall have the meaning assigned to such term in Section 5.5 of this Lease.

“Unassigned Rights” means (A) the rights of the Agency granted pursuant to Sections 2.2, 3.1, 3.2, 3.3, 4.1(B), 4.1(D), 4.1(E), 4.1(F), 4.1(G), 5.2 (A), 5.3 (B) and (C), 5.4, 5.5, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.12, 8.13, 8.14, 9.1, 9.3, 11.2, 11.4, 12.4, 12.7 and 12.9 of this Lease, (B) the moneys due and to become due to the Agency for its own account or the members, officers, agents, servants and employees, past, present and future, of the Agency for their own account pursuant to Sections 2.2(G), 3.1, 3.3, 4.1, 5.3, 5.4, 6.4(B), 6.6, 8.2, 8.9, 8.12, 9.1, 9.3, 10.2, 10.4, 11.2 and 11.4 of this Lease, (C) the moneys due as payments in lieu of taxes pursuant to Section 6.6 of this Lease and as recapture of benefits pursuant to Section 11.4 of this Lease, (D) the right of the Agency in its own behalf to enforce the obligation of the Company to undertake and complete the Project and to confirm the qualification of the Project as a “project” under the Act, and (E) the right to enforce the foregoing pursuant to the PILOT Agreement, the PILOT Mortgage, and Section 5.5 and Article X of this Lease.

**SECTION 1.2 INTERPRETATION.** In this Lease, unless the context otherwise requires:

(A) the terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms as used in this Lease, refer to this Lease, and the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the Closing Date;



(B) words of masculine gender shall mean and include correlative words of feminine and neuter genders;

(C) words importing the singular number shall mean and include the plural number, and vice versa;

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

(E) any certificates, letters or opinions required to be given pursuant to this Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Lease; and

(F) references to documents, instruments or agreements shall mean such documents, instruments and agreements as they may be amended, modified, renewed, replaced or restated from time to time in accordance with the terms hereof.

## ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

**SECTION 2.1 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.** The Agency makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Agency is duly established under the provisions of the Act and has the power to enter into this Lease and the other Transaction Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder. Based upon the representations of the Company, the Project will constitute a “project”, as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver and perform this Lease and the other Transaction Documents to which the Agency is a party.

(B) Neither the execution and delivery of this Lease or the other Transaction Documents to which the Agency is a party, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the provisions of this Lease or the other Transaction Documents to which the Agency is a party will conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the by-laws of the Agency or any order, judgment, agreement or instrument to which the Agency is a party or by which the Agency is bound, nor will constitute a default by the Agency under any of the foregoing.

(C) Except as provided in Articles IX, X and XI hereof, the Agency, to the extent of its interest therein, shall not sell, assign, transfer, encumber or pledge as security the Project Facility or any part thereof and shall maintain the Project Facility free and clear of all liens or encumbrances created by the Agency, except as contemplated or permitted by the terms of this Lease and the other Transaction Documents.

**SECTION 2.2 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY.** The Company makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, is qualified and authorized to do business as a foreign limited liability company in all jurisdictions in which its operations or ownership of its Properties so require, and has the power to enter into this Lease and the other Transaction Documents to which the Company is a party and to carry out its obligations hereunder and thereunder. By proper action of its managers, the Company has been duly authorized to execute, deliver and perform this Lease and the other Transaction Documents to which the Company is a party. No other consent, approval or action by the members or managers of the Company or any other consent or approval (governmental or otherwise) or the taking of any other action is required as a condition to the validity or enforceability of this Lease or any of the other Transaction Documents.

(B) Neither the execution and delivery of this Lease or any of the other Transaction Documents to which the Company is a party, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the provisions of this Lease or the other Transaction Documents to which the Company is a party will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the Company's certificate of conversion or operating agreement or any other company restriction, order, judgment, agreement, document or instrument to which the Company is a party or by which the Company or any of its Property is bound, or constitute a default by the Company under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon the Project Facility under the terms of any of the foregoing, other than Permitted Encumbrances, (2) conflict with or result in a violation of Applicable Laws, (3) require consent or approval (which has not been heretofore received and provided to the Agency) under any company restriction, agreement or instrument to which the Company is a party or by which the Company or any of its Property may be bound or affected, or (4) require consent or approval (which has not been heretofore obtained and provided to the Agency) under or conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any Governmental Authority having jurisdiction over the Company or any of the Property of the Company.

(C) The completion of the Project Facility by the Company as agent of the Agency, the sublease thereof by the Agency to the Company, and the operation thereof by the Company will not result in the removal of a facility or plant of the Company or any lessee, sublessee or other proposed occupant of the Project Facility, or any part thereof, from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Company, or any lessee, sublessee, sub-sublessee or other proposed occupant of the Project Facility, or any part thereof, located in the State (other than within the County); provided, however, that nothing in this Section shall constitute an authorization by the Agency for the Company to lease, sublease, sub-sublease or permit any other occupancy arrangements with respect to the Project Facility or any part thereof without the prior written consent of the Agency as set forth in Section 9.3 of this Lease.

(D) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 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 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

(E) The Transaction Documents to which the Company is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid, legal and binding obligations of the Company, enforceable in accordance with their respective terms.

(F) The Project constitutes a commercial facility and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. The Project Facility is, and so long as this Lease shall remain in effect, the Project Facility will continue to be a "project", as such quoted term is defined in the Act, and the Company will not take any action (or omit to take any action), or allow any action to be taken or not taken, which action, inaction or omission would in any way cause the Project Facility not to constitute a "project", as such quoted term is defined in the Act.

(G) The Project Facility and the operation thereof will comply with all Applicable Laws, and the Company will indemnify, defend (with counsel selected by the Agency) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from all claims, liabilities, damages, fees, expenses, fines and penalties due to failure, or alleged failure, to comply with all Applicable Laws. The Company shall cause all notices as required by all Applicable Laws to be given, and shall comply and use reasonable commercial efforts to cause Sublessees to comply with all Applicable Laws applying to or affecting the conduct of work on the Project or the operation of the Project Facility, and the Company will indemnify, defend (with counsel selected by the Agency) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future harmless, from all claims, liabilities, damages, fees, expenses, fines and penalties due to failure, or alleged failure, to comply therewith; provided that such claims, liabilities, damages, fees, expenses, fines and penalties of the Agency are not incurred or do not result solely from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company), attorneys, servants or employees, and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(H) The Project will not have a "significant adverse environmental impact" (as such term is used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions enumerated in the resolution and negative declaration adopted by the Agency on June 30, 2015 under SEQRA applicable to the acquisition, renovation, installation, equipping and operation of the Project Facility contemplated by Section 4.1 of this Lease and in any other approvals issued by any other Governmental Authority with respect to the

Project Facility. No material changes with respect to any aspect of the Project Facility have arisen from the date of adoption of such resolution which would cause the determinations contained therein to be untrue.

(I) Intentionally omitted.

(J) Intentionally omitted.

(K) There are no actions, suits, investigations or proceedings of or before any Governmental Authority, pending or threatened against the Company or any of its Property which (i) either in any case or in the aggregate, if adversely determined, would materially, adversely affect the business, operations or condition, financial or otherwise, of the Company, or (ii) question the validity of any of the Transaction Documents or any action to be taken in connection with the transactions contemplated thereby.

(L) The Company is not in default with respect to any order, writ, injunction or decree of any Governmental Authority, or in violation of any law, statute or regulation, domestic or foreign, to which the Company or any of its Property is subject.

(M) The subleasing of the Project Facility by the Agency to the Company and the granting of the Financial Assistance have induced the Company to proceed with the Project. The granting of the Financial Assistance by the Agency with respect to the Project Facility will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their prosperity and standard of living, and will prevent unemployment and economic deterioration and thereby serve the public purposes of the Act.

(N) The Company, together with its Affiliates, shall (i) continue to employ not less than forty-one (41) full-time equivalent, private sector employees as described in the Application throughout the term of this Lease (it being understood and agreed that such employees may not all be located at the Project Facility; provided, however, that all of such jobs shall be located in Nassau County), and (ii) create at least fifty-five (55) new, full-time equivalent, private sector construction jobs during the period from the Closing Date until the Completion Date, all of which construction jobs shall be located at the Project Facility (collectively, the "Minimum Employment Requirement").

(O) The funds available to the Company are sufficient to pay all costs in connection with the acquisition, renovation, installation and equipping of the Project Facility contemplated by Section 4.1 of this Lease.

(P) The Company is not a Prohibited Person, no Guarantor is a Prohibited Person, and no Affiliate of the Company or any Guarantor is a Prohibited Person and no member, partner or shareholder, as the case may be, of the Company or any Guarantor, is a Prohibited Person.

(Q) Neither this Lease nor any other Transaction Document nor any other document, certificate, agreement or instrument furnished to the Agency by or on behalf of the Company or any Guarantor contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

(R) No funds of the Agency shall be used in connection with the transactions contemplated by this Lease for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional 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.

(S) The Company is, and shall at all times during the term of this Lease, continue to be owned solely by Rechler Family Associates, LLC and Wexler Family Associates, LP; provided, however, that the aforementioned entities may transfer all or any part of their interests in the Company to members of the immediate family of the principals of such entities (or trusts for the benefit of such immediate family members) and/or to others approved in writing by the Agency in its reasonable discretion, provided that no such transfers shall result in a change in the day-to-day control of the management and operations of the Company.

(T) The Project Facility is located entirely within the boundaries of the Town of Oyster Bay, Nassau County, New York, is not located in whole or in part within the boundaries of any incorporated village, and is located only within the Jericho Union Free School District.

(U) The total cost of the Project, which excludes the cost of the renovation, installation and equipping being undertaken by Publishers pursuant to the Project Agreement, is at least \$27,923,868.

(V) As of the Closing Date, no leases, licenses or other occupancy arrangements exist with respect to the Project Facility or any part thereof except this Lease, the Company Lease and those certain lease agreements set forth on Exhibit H attached hereto (collectively, the "Pre-Closing Leases"), and no Person is in occupancy or possession of any portion of the Project Facility, except the Company and the tenants under the Pre-Closing Leases. The Company represents and warrants to the Agency that the Pre-Closing Leases are in all respects subject and subordinate to this Lease, the Company Lease, the PILOT Agreement, the PILOT Mortgage, the Bank Mortgage and all other Permitted Encumbrances.

(W) The Company has not conveyed, assigned, transferred, mortgaged, hypothecated, pledged or granted a security interest in its interest in the Project Facility pursuant to a mortgage, security agreement, pledge or other agreement that prohibits the Company from executing and delivering the Company Lease, this Lease or any other Transaction Document. The Company covenants and agrees that it shall not enter into a mortgage, security agreement, pledge or other agreement under which the execution and delivery of the Company Lease, this Lease or any other Transaction Document would constitute a default or an event of default.

(X) Neither the Company nor any Affiliate of any of the foregoing has employed or retained any appointed or elected governmental official to solicit or secure the Agency's undertaking of the Project or its agreement to enter into this Lease or any other Transaction Document upon an agreement of understanding for a commission or percentage, brokerage or contingent fee.

**ARTICLE III  
CONVEYANCE AND USE OF PROJECT FACILITY**

**SECTION 3.1 CONVEYANCE TO THE AGENCY.** (A) Pursuant to the Company Lease, the Company has conveyed or will convey to the Agency a leasehold interest in and to the Premises for the purpose of undertaking and completing the Project. The Company hereby represents and warrants that it has good and marketable title to the Premises, free and clear from all Liens except for Permitted Encumbrances, and agrees that the Company will defend (with counsel selected by the Agency), indemnify and hold the Agency harmless from any expense or liability due to any defect in title thereto or due to any defect in the leasehold interest granted to the Agency pursuant to the Company Lease.

(B) The Company and the Agency acknowledge that the Project Facility and the leasehold interest therein conveyed to the Agency from the Company and subleased by the Agency back to the Company are not “property” as defined in Title 5-A of the Public Authorities Law of the State because such property and the interests therein are security for the Company’s obligations to the Agency under this Lease and the other Transaction Documents, including, without limitation, (i) the Company’s obligation to acquire, renovate, install, equip and maintain the Project Facility on behalf of the Agency, and (ii) the performance by the Company to the Agency of the Company’s other obligations under this Lease and the other Transaction Documents.

**SECTION 3.2 USE OF PROJECT FACILITY.** Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by the Transaction Documents, provided that such use causes the Project Facility to qualify and continue to qualify as a “project” under the Act and does not tend, in the reasonable judgment of the Agency, to bring the Project into disrepute as a public project; provided, further, however, that at no time shall the Company use any part of the Project Facility, cause any part of the Project Facility to be used or occupied or permit or suffer any part of the Project Facility to be used other than for industrial, manufacturing, warehouse, distribution, laboratory, office, or research and development purposes permitted “as of right” under applicable zoning and land use laws and rules, except with the prior written consent of the Agency, which consent may be withheld in the Agency’s sole and absolute discretion. The Company shall not occupy, use or operate the Project Facility, or any part thereof, or permit or suffer the Project Facility, or any part thereof, to be occupied, used or operated (1) for any unlawful purpose, or (2) in violation of any certificate of occupancy affecting the Project Facility, or (3) for any use which may constitute a nuisance, public or private, or (4) for any use that would make void or voidable any insurance then in force with respect thereto, or (5) by any tenant, subtenant or occupant whose use, occupancy or operation of the Project Facility would be in violation of Applicable Laws. All permits and licenses necessary for the operation of the Project Facility as contemplated by this Section 3.2 shall be procured promptly by the Company. Any provision of this Lease to the contrary notwithstanding, the Company shall be liable at all times for all risk, loss and damage with respect to the Project Facility.

Nothing in this Section shall constitute an authorization by the Agency for the Company to lease, license, sublease, sub-sublease or permit any other occupancy arrangements with respect to the Project Facility or any part thereof, except in accordance with Section 9.3 of this Lease.

### SECTION 3.3 HAZARDOUS MATERIALS.

(A) The Company represents, warrants and covenants that, (i) the Company has not used Hazardous Materials on, from or affecting the Project Facility in any manner that violates any Applicable Law, including, but not limited to, those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials (each, an “Environmental Law” and, collectively, the “Environmental Laws”), (ii) the environmental and ecological condition of the Project Facility is not in violation of any Applicable Law, including, without limitation, any Environmental Law, (iii) the Company has all Environmental Permits required to renovate and operate the Project Facility and is in compliance with their requirements, (iv) the Premises is not listed in CERCLIS, the NPL or any similar state or local listing nor is it included in an area included in such a list, and the Company has no knowledge that such a listing is pending or contemplated, (v) no event has occurred which, with the passage of time or the giving of notice or both, would constitute a violation of any Environmental Law, (vi) to the best of the Company’s knowledge, there are not now, nor have there ever been, underground storage tanks (“UST’s”) on or under the Premises, except for UST’s that have been installed, registered and are in compliance with Environmental Laws, (vii) there are no actions, suits, claims or proceedings seeking money damages, injunctive relief, remedial action or any other remedy pending or, to the Company’s knowledge, threatened relating to a violation of Environmental Law or the disposal, discharge or release of Hazardous Materials, and (viii) to the best of the Company’s knowledge, no prior owner of the Project Facility nor any tenant, subtenant, operator, occupant, prior tenant, prior subtenant, prior operator or prior occupant, has used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Environmental Law.

(B) The Company shall keep and shall cause the Project Facility to be kept free of Hazardous Materials except in compliance with Environmental Laws. Without limiting the foregoing, the Company shall not cause or permit the Project Facility, or any part thereof, to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all Environmental Laws, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company, or any tenant, subtenant, operator or occupant of the Project Facility, or any part thereof, an unlawful release of Hazardous Materials onto, under or from the Project Facility or onto any other property. The Company shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company or its members, managers, partners, shareholders, directors, officers, agents, servants, employees or representatives, a release of Hazardous Materials on, under or from the Project Facility, or any part thereof.

(C) The Company shall comply with and use reasonable commercial efforts to cause all tenants, subtenants, operators and occupants of the Project Facility to comply with, all Environmental Laws whenever and by whomever triggered, and shall obtain and comply with, and shall cause all tenants, subtenants, operators and occupants of the Project Facility to obtain and comply with, any and all approvals, registrations or permits required thereunder. The Company agrees to provide the Agency with copies of any notifications given by the Company to any Governmental Authorities or received by the Company from any Governmental Authorities with respect to the environmental or ecological condition of the Project Facility. The

Company hereby agrees that at all times during which it owns or operates the Project Facility, and whether or not this Lease or any other Transaction Document is in effect, to comply with, and to use reasonable commercial efforts to ensure compliance by all tenants, subtenants, operators and occupants of the Project Facility with, the provisions of the Environmental Indemnification.

(D) The Company shall (1) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up, remove or contain all Hazardous Materials on, from or affecting the Project Facility, (a) in accordance with all Environmental Laws, (b) to the reasonable satisfaction of the Agency, and (c) in accordance with the orders and directives of all Governmental Authorities, and (2) defend (with counsel selected by the Agency), indemnify, and hold harmless the Agency and its employees, agents, officers, attorneys, servants and members, past, present and future, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to: (a) the presence, disposal, release or threatened release of any Hazardous Materials on, from, under or affecting the Project Facility, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (c) any lawsuit brought or threatened, settlement reached, or any government order relating to such Hazardous Materials, and/or (d) any violations of Environmental Laws which are based upon or in any way related to such Hazardous Materials, including, without limitation, consultant fees, costs of remediation, investigation and laboratory fees, court costs, reasonable attorney fees and litigation expenses. Costs under this subsection (D) will be repaid immediately upon demand with interest at the Default Interest Rate commencing five (5) days after such demand.

(E) In the event this Lease is terminated, the Company shall deliver the Project Facility to the Agency free of any and all Hazardous Materials, so that the condition of the Project Facility shall conform with all Environmental Laws affecting the Project Facility.

(F) The Company agrees that the Agency and its officers, agents, employees, members, servants or representatives, may at any reasonable time, and at the Company's expense inspect the Company's books and records and inspect and conduct any tests on the Project Facility, including taking soil samples, in order to determine that the Company is in compliance with all Environmental Laws.

(G) Intentionally omitted.

**SECTION 3.4 NON-MERGER.** During the term of this Lease, there shall be no merger of this Lease or the Company Lease nor of the leasehold estate created by the Company Lease or the subleasehold estate created by this Lease with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this Lease or the Company Lease or the subleasehold estate created by this Lease or the leasehold estate created by the Company Lease or any interest in this Lease or the Company Lease or in any such leasehold or subleasehold estate and (2) the fee estate in the Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all corporations, firms and other entities, including any mortgagee having any interest in (x) this Lease or the Company Lease or the subleasehold estate



created by this Lease or the leasehold estate created by the Company Lease and (y) the fee estate in the Premises or any part thereof or any interest in such fee estate, shall join in a written instrument effecting such merger and shall duly record the same.

**SECTION 3.5 TITLE INSURANCE.** On or prior to the Closing Date, the Company will obtain and deliver to the Agency, in form, amount and substance satisfactory to the Agency, (a) an owner's title insurance policy (the "Title Policy") insuring the Agency's leasehold interest in the Premises against loss as a result of defects in title, subject only to Permitted Encumbrances, (b) a mortgagee title insurance policy insuring the PILOT Mortgagee's mortgage interest in the Premises against loss as a result of defects in title, subject only to Permitted Encumbrances, and (c) a current survey of the Premises certified to the Agency, the Company, the PILOT Mortgagee and the title insurance company issuing the Title Policy. Any proceeds of the Title Policy shall be paid to the Company and applied by the Company to remedy the applicable defect in title. If not so capable of being applied or if a balance remains after such application, the Net Proceeds or the remaining balance of the Net Proceeds, as the case may be, shall be applied to the payment of any sums due the Agency under this Lease or under any other Transaction Document, and any balance thereafter may be used by the Company for any lawful corporate purpose.

#### **ARTICLE IV UNDERTAKING AND COMPLETION OF THE PROJECT**

##### **SECTION 4.1 ACQUISITION, RENOVATION, INSTALLATION AND EQUIPPING OF THE PROJECT FACILITY.**

(A) The Company shall, on behalf of the Agency, promptly acquire, renovate, install and equip the Project Facility, or cause the acquisition, renovation, installation and equipping of the Project Facility (collectively, the "Initial Work"), in a first-class, workmanlike manner using high grade materials, free of defects in materials and workmanship, which Initial Work shall include, but not be limited to:

(1) repair, restore and/or replace existing base building systems and infrastructure of the Building, including, but not limited to, repair, restoration and/or replacement of roofing, façade, flooring, fire protection, HVAC, parking fields, water treatment (storage and distribution), wastewater (collection and treatment), electrical, telecommunications, mechanical and plumbing components of the Building;

(2) installation of energy efficiency improvements to the Building, including, without limitation, the installation of energy-efficient lighting and other electrical systems throughout the Building, with the goal that energy usage at the Building will be reduced by a minimum of fifteen percent (15%).

Notwithstanding the foregoing, the Company shall not, at any time during the term of this Lease, construct an addition to or otherwise increase the useable square footage of the Building without the prior written consent of the Agency, which consent may be withheld in the Agency's sole and absolute discretion.

(B) No material change in the Initial Work shall be made unless the Agency shall have consented thereto in writing (which consent shall not be unreasonably withheld or delayed).

If the Agency fails to respond to the Company's written request for such consent within twenty (20) days after delivery of such request to the Agency, then the Agency shall be deemed to have consented; provided, however, that if such request requires the approval of the members of the Agency (as determined by the Agency and communicated to the Company within said twenty (20) day period), the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request; provided that any delay of more than twenty (20) days after delivery of such written request to the Agency shall extend the Scheduled Completion Date by the number of days in excess of twenty (20) days.

(C) Title to all materials, equipment, machinery and other items of Property presently incorporated or installed in and which are a part of the Project Facility shall vest in the Agency immediately upon execution of the Bill of Sale to Agency. Title to all materials, equipment, machinery and other items of Property acquired subsequent to the Closing Date and intended to be incorporated or installed in and to become part of the Project Facility shall vest in the Agency immediately upon deposit on the Premises or incorporation or installation in the Project Facility, whichever shall first occur. The Company shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(D) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1; provided, however, that the liability of the Agency thereunder shall be limited to the moneys of the Company available therefor and advanced by the Company for such purpose pursuant to Section 4.1(H) of this Lease.

(E) The Agency hereby appoints the Company, and the Company hereby accepts such appointment, as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Transaction Documents: (1) to acquire, renovate, install and equip the Project Facility as contemplated by this Lease, (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be required or proper, all for such acquisition, renovation, installation and equipping of the Project Facility, with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the liability of the Agency thereunder shall be limited to the moneys made available therefore by the Company and advanced for such purposes by the Company pursuant to Section 4.1(H) of this Lease, (3) to pay all fees, costs and expenses incurred in such acquisition, renovation, installation and equipping of the Project Facility from funds made available therefor in accordance with this Lease, and (4) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt, writing or instruction entered into by the Company in connection with such acquisition, renovation, installation and equipping of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond or other performance security in connection with the same.

(F) The Company has given or will give or cause to be given all notices and has complied and will comply or cause compliance with all Applicable Laws applying to or affecting

the conduct of work on the Project Facility, and the Company will defend (with counsel selected by the Agency), indemnify and save the Agency and its officers, members, agents, attorneys, servants and employees, past, present and future, harmless from all fees, expenses, fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(G) The Company shall not take any action, or neglect to take any action, including, without limitation, the employment of any contractor, if such action or inaction results in jurisdictional disputes or strikes or labor disharmony in connection with the Project.

(H) The Company agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith. A leasehold interest in portions of the Project Facility acquired, renovated and installed at the Company's cost shall immediately upon such acquisition, renovation or installation vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may reasonably request in order to perfect or protect the Agency's interest in such portions of the Project Facility.

(I) No payment by the Company pursuant to this Section 4.1 shall entitle the Company to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by the Company under this Lease.

(J) The Company agrees, (i) at the sole expense of the Company, to erect signage at the Project Facility during the renovation, installation and equipping of the Project Facility, which signage shall be in form and content reasonably satisfactory to the Agency and shall identify the Agency and its role in the Project, (ii) at the option of the Agency and at the sole expense of the Company, to install within the Project Facility a sign or plaque permanently memorializing the Agency's role in the Project, which sign or plaque shall be in form, content and placed in a location satisfactory to the Agency, which shall not be unreasonably withheld, and (iii) that the Agency may otherwise publicize the Agency's role in the Project.

(K) The Company agrees to solicit bids from at least one (1) contractor or vendor based in the County for each contract the Company (or any Affiliate thereof) proposes to enter into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the Initial Work and for buildout of approved subtenant premises), renovation, alteration, management, purchase of goods or services, maintenance and repair. Further, the Company covenants to use its best efforts to let such contracts, where practicable, to contractors or vendors based in the County.

(L) W/MBE Contractors.

(1) The Company will use its best efforts to take "affirmative steps" (as defined below) to assure that qualified women-owned and/or minority-owned business enterprises ("W/MBE's) are used, when possible, for each contract the Company (or any Affiliate thereof) proposes to enter into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the Initial Work and for buildout of approved subtenant premises), renovation, demolition,

replacement, alteration, management, purchase of goods and services, maintenance and repair.

(2) For purposes of this subsection, the term “affirmative steps” shall mean: (a) placing qualified W/MBE’s on solicitation lists; (b) assuring that qualified W/MBE’s are solicited whenever they are potential sources; (c) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified W/MBE’s; (d) establishing delivery schedules, where the requirement permits, that encourage participation by qualified W/MBE’s; and (e) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (a) through (d).

(3) For purposes of this subsection, the term “qualified W/MBE’s” shall mean those women-owned and/or minority-owned business enterprises designated as such by New York State.

(M) The Company shall furnish to the Agency all information and/or documentation requested by the Agency pursuant to this Section 4.1 and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section 4.1.

(N) Notwithstanding any provision of this Lease to the contrary, the Company acknowledges that no sales and use tax exemption is granted pursuant to this Lease or the other Transaction Documents except with respect to the Initial Work.

(O) The Company shall comply with and cause its contractors and subcontractors to comply with, the requirements of the Town of Oyster Bay Town Code that require licensed contractors engaged in the renovation, installation and equipping of the Project Facility to have an apprenticeship program licensed by the New York State Department of Labor.

#### SECTION 4.2 COMPLETION OF THE PROJECT FACILITY; FEES.

(A) The Company will proceed with due diligence to commence the Initial Work in accordance with Section 4.1 of this Lease within one hundred eighty (180) days after the Closing Date and shall proceed with due diligence to complete the Initial Work, on or before December 31, 2017, as such date may be extended in accordance with this Lease (the “Scheduled Completion Date”). The Company covenants to diligently prosecute its application for any required building permits for the Project Facility. Completion of the Initial Work shall be evidenced by a certificate signed by an Authorized Representative of the Company delivered to the Agency stating (A) the date of such completion, (B) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (C) that the Initial Work contemplated by Section 4.1 of this Lease has been completed in a good and workmanlike manner, (D) that the Company and the Agency have good and valid interests in and to all Property constituting a portion of the Project Facility, free and clear of all Liens and encumbrances except Permitted Encumbrances, and (E) that the Project Facility or the applicable portion thereof, as the case may be, is ready for occupancy, use and operation for its intended purposes. Such certificate shall be accompanied by a certificate of occupancy for the Project Facility and/or all appropriate permissions, licenses or consents required of Governmental

Authorities for the occupancy, operation and use of the Project Facility for its intended purposes (other than any such permissions, licenses or consents required with respect to the specific occupancy of the Project Facility, or a portion thereof, by an occupant thereof).

(B) The Company shall pay within the time periods required by applicable Governmental Authorities, all construction related and other fees for the Project, including, without limitation, building permit fees, plumbing fixture permit fees, recreation fees, site planning fees, municipal consultant review fees, special use fees, variance fees, sewer hook up fees, water service installation fees and fire line fees, if any.

**SECTION 4.3 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.** In the event of a default by any contractor, subcontractor or materialman under any contract made by it in connection with the acquisition, renovation, installation and equipping of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company and the Agency against the contractor, subcontractor or materialman so in default and against each surety for the performance of such contract. The Company may, in its own name or, with the prior written consent of the Agency, which consent shall not be unreasonably withheld, in the name of the Agency, prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety which the Company deems reasonably necessary, and in such event the Agency hereby agrees, at the Company's sole expense, to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding. The Company shall advise the Agency of any actions or proceedings taken hereunder. The Net Proceeds of any recovery secured by the Company as a result of any action pursued against a contractor, subcontractor, materialman or their sureties pursuant to this Section 4.3 shall be used to the extent necessary to complete the Project Facility then to pay all reasonable costs and expenses incurred by the Agency in connection therewith, and thereafter be paid to the Company for its own use.

**ARTICLE V  
DEMISE OF PROJECT FACILITY; RENTAL PAYMENTS  
AND OTHER AMOUNTS PAYABLE**

**SECTION 5.1 SUBLEASE OF THE PROJECT FACILITY.** In consideration of the Company's covenant herein to make rental payments hereunder, and in consideration of the other covenants of the Company contained herein, including the covenant to make additional and other payments required hereby, the Agency hereby agrees to demise and sublease to the Company, and the Company hereby agrees to rent and sublease from the Agency, a subleasehold interest in the Project Facility, subject only to the Permitted Encumbrances.

**SECTION 5.2 DURATION OF THE LEASE TERM; QUIET ENJOYMENT.**

(A) The Agency shall deliver to the Company possession of the Project Facility, subject to the provisions of this Lease, and the subleasehold estate created hereby shall

commence, on the Closing Date, and the Company shall accept possession of the Project Facility on the Closing Date.

(B) Provided that all amounts, costs and expenses payable by the Company to the Agency under this Lease and all other Transaction Documents are paid in full, the subleasehold estate created hereby shall terminate at 12:00 a.m. on the earliest to occur of (1) December 31, 2038 (the "Stated Expiration Date"), (2) the date that this Lease shall terminate pursuant to Article X or Article XI hereof, or (3) the date the PILOT Agreement shall terminate pursuant to the terms thereof.

(C) The Agency shall take no action, other than pursuant to Article X or Article XI of this Lease, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Facility during the term of this Lease and will, at the request of the Company and at the Company's expense, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project Facility.

#### SECTION 5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(A) The Company shall pay on the date of execution and delivery of this Lease, as the basic sublease payments due hereunder: (1) the sum of \$1.00, (2) all reasonable fees and expenses of Special Counsel to the Agency to date with respect to the Project, and (3) all other reasonable costs and expenses incurred by the Agency in connection with the transactions contemplated by this Lease and the other Transaction Documents.

(B) The Company agrees to pay to the Agency the following one-time fees: (1) a closing compliance fee in the amount of \$2,500.00, (2) an Agency administrative fee in the amount of \$135,848.00, with respect to the Project, and (3) the Agency's general counsel fee in the amount of \$27,924.00 (collectively, the "Administrative Fee"). The Administrative Fee is due and payable by the Company to the Agency on the Closing Date. The Administrative Fee is non-refundable and is deemed earned in full upon the execution and delivery of this Lease. The Company acknowledges that the Administrative Fee is independent of any administrative fee payable to the Agency pursuant to the Project Agreement.

(C) The Company agrees to pay to the Agency an annual administrative fee in the amount of \$1,000.00 (the "Annual Fee"). The Annual Fee for the first year of the lease term or part thereof (i.e., 2015) shall be due and payable on the Closing Date and the Annual Fee for each year thereafter (i.e., 2016 and thereafter) shall be due and payable, in advance, on January 1 of each year.

(D) Within five (5) days after receipt of a demand therefor from the Agency, the Company shall pay to the Agency the sum of the costs and expenses of the Agency and the officers, members, agents, attorneys, servants and employees thereof, past, present and future, incurred by reason of the Agency's ownership, leasing, subleasing or sale of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Lease or any of the other Transaction Documents, and any other fee or expense of the Agency with respect to the Project Facility, the leasing, subleasing or sale of the Project Facility to the Company, the sub-subleasing of portions of the Project Facility to the Sublessees, or any of the

other Transaction Documents, the payment of which is not otherwise provided for under this Lease.

(E) The Company agrees to make the above-mentioned payments in immediately available funds, without any further notice or demand, by wire transfer or other form of payment satisfactory to the Agency, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Company shall fail to make any payment required by this Section 5.3 within ten (10) days of the date such payment is due, the Company shall pay the same, together with interest thereon at the Default Interest Rate, from the date on which such payment was due until the date on which such payment is received by the Agency.

#### SECTION 5.4 NATURE OF OBLIGATIONS OF THE COMPANY HEREUNDER.

(A) The obligations of the Company to make the payments required by this Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be general obligations of the Company and shall be absolute and unconditional irrespective of any defense or any right of setoff, recoupment, counterclaim or abatement that the Company may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants or agreements contained in, this Lease, or terminate this Lease (except as set forth in Section 11.1 hereof), for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the Project, any defect in the title, design, operation, merchantability, fitness or condition of the Project Facility or any part thereof or in the suitability of the Project Facility or any part thereof for the Company's purposes or needs, failure of consideration for, destruction of or damage to, Condemnation of or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease.

(B) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part expressly contained in this Lease, and, in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance (subject to the provisions of Section 12.9 hereof); provided, however, that the Company shall look solely to the Agency's estate and interest in the Project Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other Property or assets of the Agency or of the members, officers, agents (other than the Company), servants or employees, past, present and future, of the Agency shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Lease, the relationship of the Agency and the Company hereunder or the Company's or any Sublessee's use and occupancy to the Project Facility, or any other liability of the Agency to the Company.

## SECTION 5.5 GRANT OF SECURITY INTEREST.

This Lease shall constitute a “security agreement”, as such term is defined in the Uniform Commercial Code adopted in the State, as the same may from time to time be in effect (the “UCC”). The Company hereby grants the Agency a first-priority security interest in all of the right, title and interest of the Company in the materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property acquired by or on behalf of the Company using the Sales Tax Agency Agreement (excluding, in all instances, fixtures affixed to and part of the Land or the Building), and in all additions and accessions thereto, all replacements and substitutions therefor, and all proceeds and products thereof (collectively, the “Collateral”), as security for payment of the rental payments and all other payments and obligations of the Company hereunder, and the Agency is authorized to file financing statements with respect to such Collateral without the Company executing the same. Provided that no Event of Default has occurred and is continuing beyond applicable periods of grace or cure, the Company may collect and retain rents from Sublessees in the ordinary course of its business. If any Event of Default shall occur and be continuing beyond applicable periods of grace or cure, the Agency shall have, in addition to any and all other rights and remedies set forth in this Lease, and may exercise without demand, any and all rights and remedies granted to a secured party under the UCC, including, but not limited to, the right to take possession of the Equipment and any fixtures or other personal property that constitute part of the Collateral, and the right to advertise and sell the same, or any part thereof, pursuant to and in accordance with the UCC. The Company agrees that any notice of public or private sale with respect to such Collateral, or any part thereof, shall constitute reasonable notice if it is sent to the Company not less than ten (10) days prior to the date of any such sale. The Company hereby irrevocably appoints the Agency as its attorney-in-fact to execute, deliver and/or file any instruments or statements necessary or convenient to perfect and continue the security interest granted herein.

## SECTION 5.6 SUBLEASE.

(A) The Company covenants and agrees to enforce each Sublease Agreement in accordance with its terms for the benefit of the Agency.

(B) In order to further secure the payment and performance of the obligations of the Company under this Lease and the other Transaction Documents, subject to the prior rights of the Bank under the Bank Mortgage, the Company does hereby collaterally assign, transfer and set over to the Agency all of the Company’s right, title and interest in and to all Sublease Agreements, including all sublease rentals, revenues and receipts therefrom, and the right to enforce all of the Company’s rights and remedies thereunder.

(C) The Company agrees not to terminate, modify, amend or supplement any Sublease Agreement, or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, except in the ordinary course of the Company’s business.

(D) In the exercise of the powers herein granted, no liability shall be asserted or enforced against the Agency, all such liability being hereby expressly waived and released by the



Company. The Agency shall not be obligated to perform or discharge any obligation, duty or liability under any Sublease Agreement, or under or by reason of this assignment.

ARTICLE VI  
MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

SECTION 6.1 MAINTENANCE AND MODIFICATIONS OF THE PROJECT FACILITY.

(A) The Company shall (1) keep the Project Facility in good condition and repair and preserve the same against waste, loss, damage and depreciation, ordinary wear and tear excepted, (2) occupy, use and operate the Project Facility, and shall cause the Project Facility to be occupied, used and operated, in the manner for which it was intended and contemplated by this Lease, (3) make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen), (4) operate the Project Facility in a sound and economical manner, (5) not abandon the Project Facility, (6) perform or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency under the Bank Mortgage, and (7) not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Project Facility, or any part thereof, or the interest of the Agency or the Company in the Project Facility or this Lease, except for Permitted Encumbrances. The Agency shall have no obligation to replace, maintain or effect replacements, renewals or repairs of the Project Facility, or to furnish any utilities or services for the Project Facility and the Company hereby agrees to assume full responsibility therefor.

(B) Subject to subsections (8), (9) and (10) below, the Company may, without notice to or obtaining the consent of the Agency, undertake and complete alterations, modifications or improvements to the Project Facility which are customary tenant improvements pursuant to Office Subleases, and upon prior written notice to the Agency, the Company may make other alterations, modifications or improvements to the Project Facility, or any part thereof, provided:

(1) the Company shall (a) give or cause to be given all notices and comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on such modification or improvement to the Project Facility, or any part thereof, (b) indemnify, defend (with counsel selected by the Agency) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future harmless from all fees, expenses, fines and penalties due to failure to comply therewith, (c) promptly procure all permits and licenses necessary for the prosecution of any work described in this Section 6.1(B), and (d) not be in default under this Lease or under any of the other Transaction Documents beyond applicable notice and cure periods;

(2) such alterations, modifications and improvements are effected with due diligence, in a good and workmanlike manner and in compliance with all Applicable Laws;

(3) the Company shall promptly and fully pay for such alterations, modifications and improvements in accordance with the terms of the applicable contract(s) therefor;

(4) the alteration, modification or improvement to the Project Facility shall not constitute or cause a default under any of the Transaction Documents;

(5) the Company shall furnish to the Agency, at least thirty (30) days prior to commencing such alteration, modification or improvement to the Project Facility, detailed plans and specifications therefor; provided, further, however, that such plans need not be furnished to the Agency for nonstructural modifications or improvements to the Project Facility which are customary tenant improvements for office space Sublessees or, with respect to other alterations or improvements, which do not exceed, at any one time, \$100,000.00 in value;

(6) as a result of such alterations, modifications or improvements, neither the usefulness, structural integrity nor operating efficiency of the Project Facility would be impaired in the judgment of the Agency;

(7) if the cost of such alterations, modifications or improvements is for purposes other than customary tenant improvements for office space Sublessees and is estimated to exceed \$100,000.00, such alterations, modifications or improvements shall be conducted only after the Company shall have furnished to the Agency a labor and materials payment bond, or other security, naming the Agency as dual obligee and otherwise in form and substance satisfactory to the Agency, or the Company shall have furnished to the Agency other evidence satisfactory to the Agency in its reasonable discretion of the availability of sufficient funding for such alterations, modifications or improvements;

(8) the Agency receives reasonably satisfactory evidence that such alterations, modifications and alterations do not change the nature of the Project Facility such that it would not comply with the terms of this Lease or such that it would not constitute a "project" (as such quoted term is defined in the Act);

(9) if such alterations, modifications or improvements involve an addition to the Project Facility or would otherwise result, but for the Agency's interest in the Project Facility, in an increase in the assessed value of the Premises, then the Agency may require an increase in the Administrative Fee, the Annual Fee and/or the sums payable under the PILOT Agreement, if any;

(10) no such alterations, modifications or improvements shall be entitled to any "financial assistance" (as such quoted term is defined in the Act) from the Agency unless agreed to in writing by the Agency; and

(11) an Event of Default shall not have occurred and be continuing under this Lease or any other Transaction Document.

All such alterations, modifications and improvements shall constitute a part of the Project Facility and the Company shall deliver or cause to be delivered to the Agency appropriate documents to convey title to or a leasehold interest in such property to the Agency, as the case may be, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances, and to subject such property to this Lease.

The provisions of this Subsection (B) shall not apply to the Initial Work contemplated by Section 4.1 of this Lease.

(C) The Company has given or will give or cause to be given all notices and has complied or will comply or cause compliance with all Applicable Laws applying to or affecting the operation of the Project Facility, and the Company will defend (with counsel selected by the Agency), indemnify and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from all fees, expenses, fines and penalties due to failure to comply therewith.

(D) In the event that any such alterations, modifications or improvements undertaken pursuant to this Section 6.1 are made in connection with a Proposed Sublease, such Proposed Sublease must be to a permitted Sublessee in accordance with Section 9.3 of this Lease. Any such alterations, modifications and improvements shall automatically become part of the Project Facility and shall be subject to the benefits and obligations of this Lease and the PILOT Agreement.

(E) Any provision of this Lease to the contrary notwithstanding, the Company shall not construct any new building or structure on the Land or any addition to any existing building on the Land, without the prior written consent of the Agency, which consent may be withheld in the Agency's sole and absolute discretion.

## SECTION 6.2 TAXES, ASSESSMENTS AND UTILITY CHARGES.

(A) The Company shall pay or cause to be paid, as the same respectively become due: (1) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility (other than those taxes for which payments in lieu thereof are being paid pursuant to the PILOT Agreement), (2) all utility and other charges, including "service charges" and deposits, incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Project Facility, and (3) all assessments and charges of any kind whatsoever lawfully made against the Project Facility by any Governmental Authority for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated hereunder to pay only such installments as are required to be paid during the term of this Lease.

(B) If the Company fails to pay any tax, assessment or charge required to be paid pursuant to this Section 6.2, the Agency may pay or cause to be paid such taxes, assessments or charges. The Company shall reimburse the Agency for any amount paid under this Section 6.2, together with interest thereon from the date of payment at the Default Interest Rate.

(C) Notwithstanding the provisions of this Section 6.2, the Company may withhold any such payment and the Company may in good faith actively contest the terms, amount, validity or the applicability of any payment referred to in such subsection (A), provided that (1) the Company shall have first notified the Agency in writing of such contest, (2) the Company is not in default under any of the Transaction Documents beyond applicable notice and cure periods, (3) the overall operating efficiency of the Project for the purposes for which it is intended is not materially impaired, (4) neither the Project Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, (5) the Company shall have set aside on its books adequate reserves with respect thereto, and (6) the Company diligently prosecutes such contest to completion. Otherwise, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

**SECTION 6.3 INSURANCE REQUIRED.** During the term of this Lease, the Company shall maintain insurance with respect to the Project Facility against such risks and liabilities and for such amounts as are, in the Agency's judgment, customarily insured against by businesses of like size and type, paying or causing to be paid, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(A) Insurance protecting the interests of the Company, the PILOT Mortgagee and the Agency as insureds, as their interests may appear, against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other perils embraced by so-called "All Risks" insurance, in amounts sufficient to prevent the Company, the PILOT Mortgagee or the Agency from becoming a co-insurer under such policy and not less than 100% of the replacement cost of the Project Facility, without deduction for depreciation, and including coverage against acts of terrorism. Additionally, during any period in which construction work or alterations are being performed at the Project Facility, the Company shall maintain extended coverage casualty insurance in the form of a "Builder's Risk" completed value non-reporting policy in an amount satisfactory to the Agency and which shall contain a provision granting the insured permission to complete and/or occupy.

(B) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility or who are responsible for the acquisition, renovation, installation and equipping of the Project Facility.

(C) Commercial general liability insurance protecting the Company, the PILOT Mortgagee and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Company under Section 8.2 of this Lease) or arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000.00 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000.00 per accident or occurrence on account of damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law, and a separate umbrella liability policy protecting the Company, the

PILOT Mortgagee and the Agency with a limit of not less than \$10,000,000.00, as said amounts may be adjusted by the Agency from time to time in its sole and absolute discretion.

(D) During any period of construction, renovation, improvement or reconstruction, to the extent not covered by the general liability insurance set forth in Subsection (C) above, Owners & Contractors Liability insurance for the benefit of the Company, the PILOT Mortgagee and the Agency in a minimum amount of \$2,000,000.00 aggregate coverage for personal injury and property damage.

(E) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus, insuring risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar enterprises.

(F) If the Project Facility is in a flood zone, a policy or policies of flood insurance in an amount not less than the maximum amount of flood insurance available with respect to the Project Facility under the Flood Disaster Protection Act of 1973, as amended.

(G) Such other insurance in such amounts and against such insurable hazards and risks as the Agency from time to time may reasonably require, including, without limitation, environmental hazard and liability insurance.

#### SECTION 6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

(A) All insurance required by Section 6.3 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State and satisfactory and having an A.M. Best rating of A- or better and a financial rating of at least VIII. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged and shall provide that such insurance shall be without any right of contribution from any other insurance carried by the Agency. All policies evidencing such insurance shall name the Company, the PILOT Mortgagee and the Agency as insureds, as their interests may appear, and naming the Agency as loss payee, and the PILOT Mortgagee as mortgagee, and provide for at least thirty (30) days' written notice to the Company, the PILOT Mortgagee and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. The Company shall deliver or cause to be delivered to the Agency on or before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Lease.

(B) All premiums with respect to the insurance required by Section 6.3 hereof shall be paid by the Company; provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the Default Interest Rate.

(C) In the event of construction, reconstruction, improvement or renovation of any part of the Project Facility, the Company shall require its contractors and subcontractors, if any, to name the Agency and the PILOT Mortgagee as additional insureds on liability policies carried by such contractors or subcontractors with respect to their operations at the Premises or with respect to the Project.

(D) Each of the policies evidencing the insurance required by Section 6.3 of this Lease shall provide that: (i) there shall be no recourse against the Agency or the PILOT Mortgagee for the payment of premiums or commissions or, if such policies provide for the payment thereof, additional premiums or assessments; (ii) in respect of the interest of the Agency or the PILOT Mortgagee in such policies, the insurance shall not be invalidated by any action or inaction of the Company or any other Person and shall insure the Agency and the PILOT Mortgagee regardless of, and any losses shall be payable notwithstanding, any such action or inaction; (iii) if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or if there shall occur any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency or the PILOT Mortgagee until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change; and (iv) the insurers waive subrogation thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or other deduction, in respect of any liability of any Person insured under such policy.

(E) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTEREST IN THE PROJECT FACILITY.

(F) Any provision of this Lease to the contrary notwithstanding, at any time during the term of this Lease that any portion of the Bank Loan is outstanding and the Bank Mortgage remains a Lien on the Project Facility, the Agency agrees that (i) the Bank shall be the loss payee with respect to the Net Proceeds of the insurance required by Sections 6.3(A) and (E) hereof, and (ii) the provisions of Sections 6.5(A) and 7.1(B) hereof shall be superseded and replaced by the applicable provisions of the Loan Agreement (as defined in the Bank Mortgage).

**SECTION 6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.** The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 hereof shall be applied as follows, subject to Section 6.4(F) of this Lease: (A) the Net Proceeds of the insurance required by Sections 6.3(A) and 6.3(E) hereof shall be applied as provided in Section 7.1 hereof, and (B) the Net Proceeds of the insurance required by Sections 6.3(B), 6.3(C) and 6.3(D) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

## SECTION 6.6 PAYMENTS IN LIEU OF TAXES.

(A) It is recognized that, under the provisions of the Act, the Agency is not required to pay certain taxes or assessments upon the Property acquired by it or under its jurisdiction, control or supervision or upon its activities. It is the intention of the parties hereto that the Project Facility be treated as exempt from real property taxation to the extent set forth in the PILOT Agreement. Accordingly, the parties hereto acknowledge that the Agency shall file New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Project Facility. The Company hereby consents to any enforcement action provided to the Taxing Entities pursuant to law in the event that the Company should fail to pay any taxes not exempted as aforesaid and shall not object to any such enforcement action on the grounds that a leasehold interest in the Project Facility is held by the Agency or that the Project Facility is under the Agency's jurisdiction, control or supervision or subject to its activities.

(B) The Agency and the Company hereby agree that the Company shall be required to make or cause to be made payments in lieu of taxes to the school districts, cities, towns, county, villages and other political unit(s) wherein the Project Facility is located having taxing powers (such political units are hereinafter collectively referred to as the "Taxing Entities"), in such amounts and at such times as are required by the PILOT Agreement.

(C) Within thirty (30) days after receipt of written request therefore, the Company shall deliver to the Agency official receipts of the Taxing Entities or other proof reasonably satisfactory to the Agency evidencing payment of any amount that the Company is required to pay under the PILOT Agreement.

## ARTICLE VII DAMAGE, DESTRUCTION AND CONDEMNATION

### SECTION 7.1 DAMAGE OR DESTRUCTION.

(A) If the Project Facility shall be damaged or destroyed, in whole or in part:

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

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement (whether or not the Project Facility is replaced, repaired, rebuilt or restored) unless otherwise agreed to in writing by the Agency;

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (B) of this Section 7.1, (a) the Company shall promptly replace, repair, rebuild or restore the Project Facility to substantially the same condition and value as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or

modifications do not so change the nature of the Project Facility that it does not constitute a “project”, as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b) (1) the Agency shall make available to the Company (solely from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the replacement, repair, rebuilding or restoration of the Project Facility, and, subject to the provisions of Section 6.4(F) of this Lease, in the event that the funds from the Net Proceeds of any insurance settlement provided by the Agency to the Company, if any, are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any insurance settlement, if any, remaining on deposit with the Agency after payment of all of the costs of such replacement, repair, rebuilding or restoration shall be paid to the Company for its own purposes.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.1, the Company shall not be obligated to replace, repair, rebuild or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection (A) of this Section 7.1, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to terminate this Lease. In such event, subject to the provisions of Section 6.4(F) of this Lease, the Net Proceeds collected by the Agency under any and all policies of insurance covering the damage to or destruction of the Project Facility, after deducting the amount necessary to repay the Indebtedness, shall be paid to the Company for its own purposes. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay the Indebtedness in full, the Company shall pay to the Agency the difference between the Net Proceeds of such insurance and the amount necessary to repay the Indebtedness in full.

(C) Unless an Event of Default under any of the Transaction Documents shall have occurred and be continuing, the Company may adjust all claims under any policies of insurance required by Section 6.3(A) and 6.3(C) hereof.

(D) The Company hereby waives the provisions of Section 227 of the Real Property Law of the State or any laws of like import, now or hereafter in effect.

## SECTION 7.2 CONDEMNATION.

(A) To the best of the Company’s knowledge, no Condemnation or eminent domain proceeding has been commenced or threatened against any part of the Project Facility or the Agency’s or the Company’s interest therein.

(B) If title to, or the use of, all or any part of the Project Facility shall be taken by Condemnation:

(1) the Agency shall have no obligation to restore the Project Facility, or any part thereof;



(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement (whether or not the Project Facility is restored) unless otherwise agreed to in writing by the Agency;

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (C) of this Section 7.2, (a) the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) as a complete architectural unit of substantially the same usefulness, design and construction as existed immediately prior to such Condemnation, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project" as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) subject to the provisions of Section 6.4(F) of this Lease, the Agency shall make available to the Company (solely from the Net Proceeds of any Condemnation award, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any Condemnation award on deposit with the Agency provided by the Agency to the Company are not sufficient to pay in full the costs of such restoration, the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any Condemnation award remaining on deposit with the Agency, if any, after payment of all of the costs of such restoration shall be paid to the Company for its own purposes.

(C) Notwithstanding anything to the contrary contained in subsection (B) of this Section 7.2, the Company shall not be obligated to restore the Project Facility and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection (B) (4) of this Section 7.2, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to terminate this Lease. In such event, subject to the provisions of Section 6.4(F) of this Lease, the Net Proceeds of any Condemnation award collected by the Agency, if any, after deducting the amount necessary to repay the Indebtedness, shall be paid over to the Company for its own purposes. If the Net Proceeds collected under any and all Condemnation awards are less than the amount necessary to repay the Indebtedness in full, the Company shall pay to the Agency the difference between such amounts and the Net Proceeds of such Condemnation awards so that the Indebtedness shall be repaid in full.

(D) Unless an Event of Default under any of the Transaction Documents shall have occurred and be continuing, the Company shall have sole control of any Condemnation proceeding with respect to the Project Facility or any part thereof or any interest therein and may negotiate the settlement of any such proceeding. The Company shall notify the Agency of the institution of any Condemnation proceedings and, within seven (7) days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(E) The Agency shall, at the expense of the Company, cooperate fully with the Company in the handling and conduct of any such Condemnation proceeding. In no event shall the Agency voluntarily settle, or consent to the settlement of, any such Condemnation proceeding without the written consent of the Company, which consent shall not be unreasonably withheld or delayed.

SECTION 7.3 ADDITIONS TO THE PROJECT FACILITY. All replacements, repairs, rebuilding or restoration made pursuant to Sections 7.1 or 7.2, whether or not requiring the expenditure of the Company's own money, shall automatically become part of the Project Facility as if the same were specifically described herein and shall be subject to this Lease.

SECTION 7.4 PRIORITY OF BANK MORTGAGE. Any provision of this Lease to the contrary notwithstanding, at any time during the term of this Lease that any portion of the Bank Loan is outstanding and the Bank Mortgage remains a Lien on the Project Facility, the Agency agrees that the provisions of Sections 7.1 and 7.2 hereof shall be superseded and replaced by the applicable provisions of the Bank Mortgage.

#### ARTICLE VIII SPECIAL COVENANTS

SECTION 8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS". THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE PROJECT FACILITY OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. THE COMPANY SHALL ACCEPT THE PROJECT FACILITY "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

#### SECTION 8.2 HOLD HARMLESS PROVISIONS.

(A) The Company hereby releases the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, from, agrees that the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency) and hold the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising directly or indirectly as a result of the Agency's undertaking the Project, including, but not limited to: (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project or the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on,

in or about the Project Facility, (2) liability arising from or expense incurred by the Agency's acquiring, renovating, equipping, installing, owning, leasing, subleasing, sub-subleasing or selling the Project Facility or arising from or incurred based on the Agency's involvement in the Project, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities and expenses arising from any claim that the Agency aided or abetted any action or inaction that gave rise to the liability or expense, and all liabilities and expenses arising as a result of the Agency's obligations under this Lease or any of the other Transaction Documents or the enforcement of or defense of validity of any provision of any of the Transaction Documents, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Section 4.1(E) hereof, and (4) all causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company), attorneys, servants or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(B) In the event of any claim against the Agency or its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure to the extent such coverage is available at a commercially reasonable premium, in the liability policies required by Section 6.3(C) of this Lease, its liabilities assumed pursuant to this Section 8.2.

(D) Notwithstanding any other provisions of this Lease, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination or expiration of this Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency or its members, agents (other than the Company), attorneys, servants or employees, past, present or future, relating thereto.

**SECTION 8.3 RIGHT OF ACCESS TO THE PROJECT FACILITY.** The Company agrees that the Agency and its duly authorized agents shall have the right at all reasonable times and upon reasonable advance notice to enter upon and to examine and inspect the Project Facility (except in cases of emergency for which advance notice shall not be required); provided, however, that no such notice shall be required in the event of an emergency or if an Event of

Default has occurred and is continuing under this Lease. The Company further agrees that the Agency shall have such rights of access to the Project Facility as may be reasonably necessary to cause the proper maintenance of the Project Facility in the event of failure by the Company to perform its obligations hereunder, but the exercise of such right shall in no event be construed to mean that the Agency has assumed any obligation hereunder to perform such maintenance.

**SECTION 8.4 COMPANY NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS.** The Company agrees that, during the term of this Lease, it will maintain its limited liability company existence as in effect on the Closing Date, will not dissolve or otherwise dispose of all or substantially all of its assets, and unless the Company is the surviving entity, (A) will not consolidate with or merge into another limited liability company or other Person, or (B) permit one or more limited liability companies or other Persons to consolidate with or merge into it, without giving prior written notice to the Agency and obtaining the consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. The Company agrees that it will not change its name or its state of formation without giving prior written notice to the Agency and obtaining the consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed.

**SECTION 8.5 AGREEMENT TO PROVIDE INFORMATION.** The Company agrees, whenever reasonably requested by the Agency, to promptly provide and certify or cause to be provided and certified such information concerning the Project Facility, the Company, the Guarantors or their respective finances, operations and affairs and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by Applicable Laws or other governmental regulation.

**SECTION 8.6 BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES.**

(A) The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(B) Within thirty (30) days after the end of each fiscal year of the Company, the Company shall furnish to the Agency a certificate of an Authorized Representative of the Company stating that no Event of Default hereunder or under any other Transaction Document has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto.

**SECTION 8.7 COMPLIANCE WITH APPLICABLE LAWS.**

(A) The Company agrees, for the benefit of the Agency, that it will, during the term of this Lease, promptly comply with all Applicable Laws in all material respects.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.7, the Company may in good faith actively contest the validity or the applicability of any Applicable Law, provided that the Company (1) first shall have notified the Agency in writing of such

contest, (2) is not in default under any of the Transaction Documents beyond any applicable notice or cure period, (3) shall have set aside adequate reserves for any such requirement, (4) demonstrates to the reasonable satisfaction of the Agency that noncompliance with such Applicable Law will not subject the Project Facility or any part thereof to loss or forfeiture, (5) demonstrates to the reasonable satisfaction of the Agency that such contest shall not result in the Company or the Agency being in any danger of any civil or criminal liability for failure to comply therewith, and (6) diligently prosecutes such contest to completion. Otherwise, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

(C) Notwithstanding the provisions of subsection (B) of this Section 8.7, if the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, may be liable for prosecution for failure to comply therewith, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

#### SECTION 8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

(A) The Company hereby agrees not to create or suffer to be created any Lien on any Properties of the Agency (other than the Project Facility) or on any funds of the Agency applicable to or deriving from the Project Facility.

(B) If any Lien (other than a Permitted Encumbrance) is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim, whether or not valid, is made against the Project Facility or any part thereof or the interest therein of the Company or the Agency or against any funds of the Agency applicable to or deriving from the Project Facility, the Company, immediately upon receiving notice of the filing, assertion, entry or issuance thereof, shall give written notice thereof to the Agency and take all action (including, without limitation, the payment of money and/or securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and remove or nullify the basis therefor. Nothing herein shall be construed as constituting the 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 Project Facility.

SECTION 8.9 PERFORMANCE OF THE COMPANY'S OBLIGATIONS. Should the Company fail to make any payment or to do any act as herein provided, after any applicable notice and cure period, the Agency may, but shall not be obligated to, without notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company or the Agency, and paying all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in connection therewith; and the Company shall pay immediately upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon, at the Default Interest Rate.

**SECTION 8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS.** The parties agree that as between them the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes “Section 38 Property” and to all other state and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

**SECTION 8.11 EMPLOYMENT OPPORTUNITIES.**

(A) The Company shall ensure that all employees and applicants for employment with regard to the Project, including, without limitation, the employees of and applicants for employment with the Company, Publishers and the other Sublessees, are afforded equal employment opportunities without discrimination.

(B) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, the Company agrees (1) to list all new employment opportunities created as a result of the Project with the New York State Department of Labor, Community Services Division (the “NYSDOL”) and with the administrative entity (collectively with NYSDOL, the “JTPA Referral Entities”) of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) (including any successor statute thereto, including without limitation, the Workforce Investment Act of 1998 (P.L. No. 105-270), collectively, the “JTPA”) in which the Project Facility is located, and (2) where practicable, to first consider for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(C) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, prior to the effective date of this Lease, an employment plan, in form and substance reasonably satisfactory to the Agency.

(D) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency and to cause Publishers and each other Sublessee to file with the Agency, on an annual basis not later than February 11 of each year during the term of this Lease, reports regarding the number of people employed at the Project Facility (including the number of persons employed by Publishers and the other Sublessees at the Project Facility) as of December 31<sup>st</sup> of the immediately preceding year, and certain other matters, said annual employment reports to be in substantially the form promulgated from time to time by the Agency. The current forms of annual employment reports are annexed hereto as Exhibit G. The Agency shall have the right, at the Company’s expense, to audit, confirm and/or require additional information with regard thereto and the Company agrees to cooperate with the Agency in connection therewith.

(E) The Company shall, at all times during the term of this Lease, maintain or cause to be maintained, as applicable, the Minimum Employment Requirement.

(F) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is bound and (ii) compliance with Applicable Laws, the Company agrees to list or cause to be listed all new employment opportunities created as a result of the Project on the Nassau County TweetMyJobs website or other website designated by the Agency from time to time, provided that such listing shall be at no cost to the Company.

(G) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is bound and (ii) compliance with Applicable Laws, the Company agrees that to the greatest extent possible all employment opportunities shall be provided to Nassau County or Suffolk County residents first.

#### SECTION 8.12 SALES AND USE TAX EXEMPTION.

(A) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain sales and use taxes imposed by the State and local governments in the State, and that the Initial Work may be exempted from those taxes due to the involvement of the Agency in the Project. Any exemption from the payment of New York sales and use taxes resulting from Agency involvement in the Project shall be limited to purchases of services and the purchase or lease of tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency solely for the purpose of undertaking the Initial Work as set forth in Section 4.1 of this Lease. No operating expenses (including, without limitation, costs of utilities, cleaning services or supplies) of the Project Facility and no other purchases or leases of services or property (including, without limitation, any purchases of goods or services related to the acquisition, construction, installation, equipping, maintenance or operation of any part of the Project Facility for a Sublessee or in connection with a Sublease Agreement unless consented to in writing by the Agency) shall be subject to an exemption from the payment of New York sales or use taxes. The Agency makes no representations or warranties that any property or service is exempt from the payment of New York sales or use taxes.

(B) On the Closing Date, the Agency and the Company shall execute and deliver a sales tax agency agreement in the form attached hereto as Exhibit E (the "Sales Tax Agency Agreement"). The granting of the sales and use tax exemption herein is subject to the following additional terms and conditions:

(1) The Sales Tax Agency Agreement shall be dated the Closing Date and shall be effective for a term commencing on its date and expiring upon the earliest to occur of: (a) the termination of this Lease, (b) December 31, 2017, or (c) the termination of the Sales Tax Agency Agreement pursuant to the terms hereof and thereof;

(2) Anything in this Lease or the Sales Tax Agency Agreement to the contrary notwithstanding, the sales and use tax exemption to be provided pursuant to the Sales Tax Agency Agreement (a) shall not be available for any date subsequent to which the Sales Tax Agency Agreement shall have been suspended as provided in this Lease; (b) shall not be available for or with respect to any tangible personal property having a useful life of less than one year; and (c) shall not be available after the Company (or the contractors or

subcontractors engaged by the Company and approved by the Agency as its agents) shall have made purchases under the Sales Tax Agency Agreement resulting in sales and use tax exemptions in the aggregate amount of the Maximum Sales Tax Benefit;

(C) The Company agrees to furnish to the Agency within fifteen (15) days after the end of each calendar quarter, a sales and use tax exemption report (the "Quarterly Sales Tax Report"), in form and substance satisfactory to the Agency in its reasonable judgment, with respect to the use of the Sales Tax Agency Agreement by the Company (and the contractors and subcontractors engaged by the Company and approved by the Agency) under the authority granted to the Company pursuant to Section 4.1(E) of this Lease during the preceding calendar quarter. Each said Quarterly Sales Tax Report shall be certified by an Authorized Representative of the Company and shall: (1) identify the contracts and specific property exempted from sales taxes and/or use taxes during such period; (2) indicate the parties to said contract; (3) indicate the maximum amount payable under said contract and indicate what portion of said amount would normally be subject to sales and use taxes imposed in the State; (4) indicate the amount of sales tax benefit expected to be received with respect to said contract; and (5) indicate the cumulative sales tax benefit claimed by the Company (and its contractors and subcontractors approved by the Agency as its agents) with respect to the Initial Work for the calendar year.

(D) Pursuant to Section 874(8) of the Act, the Company agrees to file annually (through the year after the Sales Tax Agency Agreement expires or is earlier terminated), with the New York State Department of Taxation and Finance (the "Department"), no later than January 15th of each year, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "Annual Sales Tax Report"), a statement of the value of all sales and use tax exemptions claimed by the Company (and the contractors and subcontractors engaged by the Company and approved by the Agency) under the authority granted to the Company pursuant to Section 4.1(E) of this Lease during the preceding calendar year. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be the termination of authority to act as agent of the Agency. Additionally, if the Company shall fail to comply with the requirements of this subsection (D), the Company (and its contractors and subcontractors) shall immediately cease to be the agent of the Agency in connection with the Initial Work.

(E) The Company agrees to furnish to the Agency, simultaneously with its delivery of such report to the Department, a copy of each such Annual Sales Tax Report submitted to the Department by the Company pursuant to Section 874(8) of the Act.

(F) The Company acknowledges that, pursuant to Section 874(9) of the Act, the Agency shall file within thirty (30) days of the Closing Date with the Department on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "Thirty-Day Sales Tax Report"), statements identifying the Company and its contractors and subcontractors approved by the Agency as agents of the Agency, setting forth the taxpayer identification numbers of such Persons, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating a rough estimate of the value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease. The Company agrees to timely provide



the foregoing information to the Agency and to otherwise cooperate with the Agency in connection with the preparation and filing of the Thirty-Day Sales Tax Report.

(G) With respect to any period in which the Company (and the contractors and subcontractors engaged by the Company and approved by the Agency) receives a sales and use tax exemption benefit under the authority granted to the Company pursuant to Section 4.1(E) of this Lease, the Company agrees to furnish to the Agency, on request, an opinion of a certified public accountant to the effect that such accountant has audited the claiming of such exemption from sales and use taxes by the Company (and the contractors and subcontractors engaged by the Company and approved by the Agency) for the preceding calendar year, and has reviewed the terms and provisions of the Sales Tax Agency Agreement and of this Section 8.12, and has further audited the Quarterly Sales Tax Reports for the preceding calendar year, and that such Quarterly Sales Tax Reports were properly prepared and accurately reflect the matters certified therein.

(H) The Company covenants and agrees that it shall include or cause to be included the following language in and as a part of each contract, agreement, lease, invoice, bill or purchase order entered into by the Company (or a contractor or subcontractor engaged by the Company and approved by the Agency as its agent), as agent of the Agency, in connection with the Initial Work as set forth in Section 4.1 of this Lease:

“This [contract, agreement, lease, invoice, bill or purchase order] is being entered into by [\_\_\_\_\_] (the “Agent”), as approved agent for and on behalf of the Nassau County Industrial Development Agency (the “Agency”) in connection with a certain project (the “Project”) of the Agency for JQ III Associates, LLC (the “Company”) consisting in part of certain renovation, installation and equipping of an office building located at 300 Jericho Quadrangle, Jericho, Town of Oyster Bay, County of Nassau, New York (the “Premises”) and the acquisition of certain capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property necessary for the completion of the Initial Work (as defined in that certain Sublease Agreement dated as of August 1, 2015 between the Agency and the Company) on the Premises. The capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property necessary for completion of the Initial Work which are the subject of this [contract, agreement, lease, invoice, bill or purchase order] shall be exempt from the sales and use taxes levied by the State of New York and the County of Nassau if effected in accordance with the terms and conditions set forth in the attached Sales Tax Agency Agreement of the Agency, and the Agent hereby represents that this [contract, agreement, lease, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Agency Agreement. This [contract, agreement, lease, invoice, bill or purchase order] is non-recourse to the Agency, and the Agency shall not be directly,

indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this [contract, agreement, lease, invoice, bill or purchase order], the [vendor, lessor, licensor, contractor or subcontractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

If the Company fails to include, incorporate by reference or otherwise cause the contract, agreement, lease, invoice, bill or purchase order to be subject to the above provision, then such contract, agreement, lease, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits that may be conferred by the Agency, neither the Company nor any contractor or subcontractor engaged by the Company and approved by the Agency as its agent shall claim any sales or use tax benefits or exemptions with respect thereto, and the Company shall return or cause to be returned to the Agency any such benefits or exemptions so taken, together with interest thereon at the Default Interest Rate, from the date of such taking.

The appointment by the Company of a contractor or subcontractor as an agent of the Agency pursuant to this Section 8.12 shall be subject to the prior written approval of the Agency, which approval shall not be unreasonably withheld. Any such appointment approved by the Agency shall not be valid unless and until the contractor or subcontractor executes and delivers an agency agreement in the form required by the Agency (each, a “Sub-Agent Agency Agreement”).

(I) The Company agrees to provide a completed Form ST-123, *IDA Agent or Project Operator Exempt Purchase Certificate*, to each vendor, lessor, licensor, contractor or subcontractor from which the Company (or a contractor or subcontractor engaged by the Company and approved by the Agency as its agent) purchases and/or leases goods or services or with which the Company (or a contractor or subcontractor engaged by the Company and approved by the Agency as its agent) enters into an improvement or installation contract relating to the Initial Work. The Company acknowledges that, pursuant to Section 875 of the Act, the Certificate must be provided to the vendor, lessor, licensor, contractor or subcontractor in order for the contract, agreement, lease, invoice, bill or purchase order to be exempt from the imposition of sales and/or use taxes pursuant to the authority granted under Section 4.1(E) of this Lease. The Company agrees to provide the Agency a copy of each such Form ST-123 within five (5) days after the delivery of such form to the vendor, lessor, licensor, contractor or subcontractor.

(J) (1) Without limitation of any of the Agency’s other rights under this Lease, in the event that the Company (or any contractor or subcontractor engaged by the Company and approved by the Agency as its agent) shall utilize the sales or use tax exemption provided pursuant to Section 4.1(E) of this Lease (i) in a manner that is not authorized or for which the Company (or any contractor or subcontractor engaged by the Company and approved by the Agency as its agent) is not entitled to claim an exemption, (ii) to claim exemptions in excess of the Maximum Sales Tax Benefit, (iii) to purchase or lease goods or services that are not authorized under this Lease, or (iv) in a manner that violates the provisions of this Section 8.12 or any other provision of this Lease or any provision of the Sales Tax Agency Agreement or

Sub-Agent Agency Agreement, then the Company shall promptly deliver notice of same to the Agency, and the Company shall promptly pay or cause to be paid to 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 Default Interest Rate from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was used by the Company (or a contractor or subcontractor engaged by the Company and approved by the Agency as its agent). If the Company fails to promptly pay such return of sales or use tax exemptions when due, the Agency shall have the right, without limitation of any of its other rights under this Lease, to take any action or commence any proceeding at law or in equity which may appear necessary or desirable to the Agency to recover any such amounts and the Agency shall have the right to join the Commissioner as a party in any such action or proceeding. The Company shall cooperate with the Agency in all such actions and proceedings to recover such amounts. The Company acknowledges and agrees that its failure to pay over any such amounts to the Agency shall also be grounds for the Commissioner to assess and determine State Sales and Use Taxes due from the Company under Article 28 or Article 28-A of the New York State Tax Law, together with any applicable penalties and interest due on such amounts.

(2) The Company acknowledges and agrees that, in the event the Agency recovers, receives or otherwise obtains any amount of State Sales and Use Tax from the Company (or a contractor or subcontractor engaged by the Company and approved by the Agency as its agent) pursuant to the foregoing subsection, the Agency shall have the right to remit same to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amounts, and the Company agrees to indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, against any liability incurred as a result of remitting such amounts to the Commissioner.

(3) Pursuant to Section 875 of the Act, the Agency shall prepare and file an annual compliance report (each, a "Compliance Report") detailing provisions of this Lease and, if applicable, its activities and efforts to recover, receive or otherwise obtain State Sales and Use Taxes pursuant to the terms of this Lease, together with such other information as the Commissioner and/or the Commissioner of Economic Development may require, which Compliance Report will be filed with the Commissioner, the Director of the Division of the Budget, the Commissioner of Economic Development, the State Comptroller and the Nassau County Legislature. The Company acknowledges the provisions of Section 875 of the Act, agrees to timely provide any information required by the Agency in connection with such Compliance Report and agrees to cooperate with the Agency in connection with the preparation and filing of such Compliance Report.

**SECTION 8.13 IDENTIFICATION OF THE EQUIPMENT.** All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

**SECTION 8.14 FINANCIAL STATEMENTS.** Within one hundred twenty (120) days after the end of each fiscal year, the Company shall deliver to the Agency the financial

statements of the Company prepared and compiled by an independent certified public accountant, certified by the chief financial officer of the Company, including a balance sheet as of the last day of such period and an operating statement through the last day of such period. The Company represents to the Agency that the Company's fiscal year ends on December 31<sup>st</sup>.

**ARTICLE IX  
ASSIGNMENTS; LEASING; MERGER OF THE AGENCY**

**SECTION 9.1 ASSIGNMENT OF THIS LEASE.** This Lease may not be sold, assigned or otherwise transferred by the Company, in whole or in part, without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole and absolute discretion (provided, however, that from and after the occurrence of the Completion Date, the Agency's consent shall not be unreasonably withheld, delayed or conditioned), and shall in all events be subject to and conditioned upon the payment of any required fees of the Agency and the satisfaction of all requirements of the Act. Any such sale, assignment or transfer made by the Company without the prior written consent of the Agency as aforesaid shall be null and void. Any such sale, assignment or transfer consented to by the Agency shall be made pursuant to documentation satisfactory to the Agency. The Company shall pay all reasonable and customary fees and expenses incurred by the Agency in connection with such sale, assignment or transfer.

**SECTION 9.2 MERGER OF THE AGENCY.**

(A) Nothing contained in this Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to, any other public benefit corporation of the State or any political subdivision thereof which has the legal authority to perform the obligations of the Agency hereunder and under the other Transaction Documents; provided that upon any such consolidation, merger or assignment, the due and punctual performance and observance of all of the agreements and conditions of this Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests under this Lease shall be assigned.

(B) As of the date of any such consolidation, merger or assignment, the Agency shall endeavor to give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger or assignment as the Company may reasonably request.

**SECTION 9.3 SALE OR LEASE OF THE PROJECT FACILITY.**

(A) The Company shall not lease, sublease, sub-sublease, license, or otherwise permit others to use or occupy the Project Facility or any part thereof or any interest therein (except for the Pre-Closing Leases), without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's reasonable discretion, except for subleases and other occupancy arrangements approved by the Agency as set forth in Subsection (B), if any; provided, however, in each case (1) the Company shall remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Lease, and (2) any approved sublease, license or occupancy arrangement will not diminish or

impair the obligation of the Company to carry the insurance required under Article VI hereof, and that such insurance coverage shall in no manner be limited by such sublease, license or occupancy arrangement.

(B)(1) (a) The Agency hereby consents to the Company entering into Sublease Agreements with Sublessees solely for office space in the ordinary course of the Company's business ("Office Subleases"), provided that the Company certifies to the Agency, in advance of executing any Office Sublease, that the requirements of Section 9.3(B)(2) are met with respect thereto. If at any time during the term of this Lease the Company shall request the Agency's consent to sub-sublet or otherwise permit the use or occupancy of the Project Facility, or any portion thereof, other than an Office Sublease (each, a "Proposed Sublease"), the Company shall include with such request (i) a copy of the proposed sub-sublease or other occupancy agreement, which agreement shall be substantially in the form or contain the provisions set forth in the sublease agreement form attached hereto as Exhibit I (the "Sublease Form"), which Sublease Form is hereby approved by the Agency, (ii) a proposed sublease "term sheet" in the form attached hereto as Exhibit J (the "Sublease Term Sheet"), setting forth the deal-specific terms of the Proposed Sublease and specifically identifying any proposed changes to the standard terms set forth in the Sublease Form or the exhibits thereto (any such deviations from the Sublease Form, the "Sublease Form Deviations"), and (iii) any other information reasonably requested by the Agency.

(b) The Agency agrees to promptly review and respond to any such request for consent to a Proposed Sublease. If the Agency fails to respond to the Company's written request for such consent within fifteen (15) Business Days after delivery (or refusal of delivery) of the initial written request to the Agency, then the Agency shall be deemed to have consented to such Proposed Sublease; provided, however, that if such request requires the adoption of a consent resolution by the members of the Agency (as determined by the Agency within said fifteen (15) Business Day period) because such request involves the granting of additional Financial Assistance or because such request does not meet all of the requirements of Subsection (2) below, then the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request.

(c) Notwithstanding anything in this Subsection (1) to the contrary, the Company shall have the right with respect to a request for the Agency's consent under this Subsection (B) to initially submit only the Sublease Term Sheet for the Agency's review and approval. The Agency agrees to promptly review any such Sublease Term Sheet. If the Agency fails to respond to the Company's written request for consent to the terms set forth in such Sublease Term Sheet within twelve (12) Business Days after delivery (or refusal of delivery) of the initial written request accompanied by the Sublease Term Sheet, then the Agency shall be deemed to have consented to the terms set forth in such Sublease Term Sheet; provided, however, that if such request requires the adoption of a consent resolution by the members of the Agency (as determined by the Agency within said twelve (12) Business Day) because such request involves the granting of additional Financial Assistance or because such request does not meet all of the requirements of Subsection (2) below, then the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request. If the Agency consents (or is deemed to consent) to the terms of a Sublease Term Sheet pursuant to this Subsection, then the period for the Agency's review of the

final form of the Proposed Sublease pursuant to Subsection (b) above, which shall be limited to a review of the Sublease Form Deviations, to the extent same might have a material adverse effect on the Agency (as determined by the Agency in its reasonable discretion) and incorporation of the Sublease Term Sheet terms, shall be reduced to five (5) Business Days. The Company shall deliver a copy of any such executed Sublease Agreement within three (3) days after execution thereof.

(2) If the Company does not request that additional Financial Assistance be granted simultaneously with or in connection with a Proposed Sublease, then the Agency agrees that, subject to satisfaction of the applicable requirements of Subsection (C) below, the Executive Director or other Authorized Representative of the Agency shall, on behalf of the Agency, grant the consent of the Agency in writing to the Proposed Sublease, provided that:

(a) neither the Company nor any of its Affiliates nor any Guarantor is then in default, beyond applicable notice and cure periods, under this Lease or any document, instrument or agreement between the Company, such Affiliates or such Guarantor and either the Agency or the County;

(b) the Proposed Sublease will cause the Project Facility to qualify and continue to qualify as a "project" under the Act and will not tend, in the judgment of the Agency, to bring the Project into disrepute as a public project;

(c) the proposed use of the premises demised by the Proposed Sublease (the "Subleased Premises") is a permitted use under Section 3.2 of this Lease and will not cause the Project Facility to constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit the Project Facility constitute more than one-third of the total cost of the Project Facility;

(d) the proposed lessee, sublessee or occupant (the "Proposed Sublessee") is not a Prohibited Person, no guarantor (if any) under the Proposed Sublease is a Prohibited Person and no Affiliate of the Proposed Sublessee or any such guarantor (if any) is a Prohibited Person and, if the Proposed Sublessee is not a publicly traded company, no partner, member or shareholder, as the case may be, of the Proposed Sublessee, is a Prohibited Person;

(e) the Agency determines, based on the record before it, that the Proposed Sublease will not result in the removal of a facility or plant of the Proposed Sublessee from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Proposed Sublessee located in the State (other than in the County), unless the Agency shall first determine that the Proposed Sublease is reasonably necessary to discourage the Proposed Sublessee from removing its plant or facility to a location outside the State or is reasonably necessary to preserve the competitive position of the Proposed Sublessee in its respective industry;

(f) the Agency determines, based on the record before it, that the Proposed Sublease will not result in a relocation of the Proposed Sublessee within the County that would result in the creation of vacant space within the County, unless the Agency shall first

determine that the Proposed Sublease is reasonably necessary to discourage the Proposed Sublessee from removing its plant or facility to a location outside the County;

(g) neither the Company, the Proposed Sublessee nor any Affiliate of either of them has employed or retained any appointed or elected governmental official to solicit or secure the Agency's consent to the Proposed Sublease upon an agreement of understanding for a commission or percentage, brokerage or contingent fee;

(h) no funds of the Agency shall, as a result of the Agency's consent to the Proposed Sublease, be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State; and

(i) the use of the Sublease Premises as contemplated by the Proposed Sublease would not cause the Project Facility or any part thereof or the operation thereof to be in violation of any Applicable Law.

If the Proposed Sublease does not satisfy each and every condition set forth in clauses (a) through and including (i) above, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion.

(3) If the Company requests that additional Financial Assistance (i.e., additional mortgage recording tax and/or additional sales and use tax exemptions) be granted simultaneously with or in connection with a Proposed Sublease, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion.

(C) The Agency shall not be required to grant its consent pursuant to Subsection (B) above unless and until the following conditions are satisfied:

(1) the Company shall have provided the Agency with all information and statements that may be reasonably required to ensure compliance by said entities with SEQRA and, if required, the Agency shall have adopted an appropriate finding or determination under SEQRA with respect to the Proposed Sublease;

(2) the Agency shall have complied with all applicable public hearing, notice and other procedural requirements required by Applicable Law with respect to the Proposed Sublease;

(3) the Company shall have provided all information reasonably required by the Agency with respect to the economic and fiscal impact of the Proposed Sublease and, if the Company or the Proposed Sublessee is requesting additional Financial Assistance simultaneously with or in connection with the Proposed Sublease, the Agency shall have obtained an addendum to its economic impact report reasonably satisfactory in form and substance to the Agency;

(4) the Proposed Sublease shall be substantially in the form of the Sublease Form;

(5) the Company shall have paid the Agency's consent fee of \$750 and all reasonable and customary fees and expenses incurred by the Agency in connection with such lease, subletting, sub-subletting, license, transfer, conveyance or use or occupancy by others, including, without limitation, all reasonable attorneys' fees and expenses incurred by the Agency.

(D) Any consent by the Agency to a sale, lease, subletting, sub-subletting, licensing, transfer, conveyance or use or occupancy by others shall be held to apply only to the specific transaction thereby authorized and shall not constitute a waiver of necessity for such consent to any subsequent transaction, including but not limited to a subsequent transaction by any trustee, receiver or liquidator, or personal representative of the sub-subtenant or occupant nor shall the references anywhere in this Lease to subtenants, licensees and concessionaires be construed as a consent by Landlord to a sale, lease, subletting, sub-subletting, license, transfer, conveyance or use or occupancy by others.

(E) Within thirty (30) days after the end of each fiscal quarter, the Company shall deliver to the Agency a current rent roll and a certificate, (i) listing all leases, subleases, sub-subleases and other occupancy agreements in effect with respect to the Project Facility, or any portion thereof, during the immediately preceding fiscal quarter, including, without limitation, the name of the tenant, subtenant, sub-subtenant or occupant, the square footage of the space leased, subleased or occupied, the rental and other consideration for such lease, sublease, sub-sublease or agreement, and such other information as the Agency may reasonably require from time to time, and (ii) certifying that such leases, subleases, sub-subleases or other occupancy agreements do not and shall not result in a violation of the terms of this Lease or any other Transaction Document. Notwithstanding the foregoing, failure by the Company to timely deliver the rent roll and certificate for the first, second and/or third fiscal quarters shall not constitute a default hereunder unless such failure continues for thirty (30) days after written notice of same from the Agency.

(F) Subject to Subsection (G) of this Lease, the Company shall not sell, transfer, convey or otherwise dispose of its interest in the Project Facility or any portion thereof without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole and absolute discretion. The standards set forth above shall also apply to any subsequent sale, transfer, conveyance or other disposal of the Project Facility or any portion thereof.

(G) Notwithstanding anything to the contrary contained in this Section 9.3, in any instance where the Company determines that any item constituting a portion of the Project Facility has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such portion of the Project Facility and may sell, trade in, exchange or otherwise dispose of the same, as a whole or in part, without the prior written consent of the Agency but, upon reasonable prior notice to the Agency, provided that such removal will not materially impair the value of the Project Facility as collateral and provided the same is forthwith replaced with items of similar quality and value as the items replaced as of the date of original



installation of the replaced items. At the request of the Company, the Agency shall execute and deliver to the Company all instruments reasonably necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Property free from the Liens of the Transaction Documents. The Company shall pay all reasonable costs and expenses (including reasonable attorneys' fees and expenses) incurred in transferring title to and releasing from the Liens of the Transaction Documents any item of Property removed pursuant to this Section 9.3.

(H) The Company shall use its commercially reasonable efforts to market and lease space within the Project Facility.

## ARTICLE X EVENTS OF DEFAULT AND REMEDIES

### SECTION 10.1      EVENTS OF DEFAULT DEFINED.

(A) The following shall be "Events of Default" under this Lease, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(1) A default by the Company in the due and punctual payment of any amount due under this Lease or under any other Transaction Document, and the continuance thereof for a period of fifteen (15) days after written notice thereof is given by the Agency to the Company.

(2) A default in the performance or observance of any covenant, condition or agreement on the part of the Company in this Lease (other than as set forth in subsection (1) above or in any other subsection of this Section 10.1(A)) and the continuance thereof for a period of twenty (20) days after written notice thereof is given by the Agency to the Company, or, if such covenant, condition or agreement is capable of cure but cannot be cured within such twenty (20) day period, the failure of the Company to commence to cure within such twenty (20) day period and to prosecute the cure to completion with due diligence.

(3) The occurrence of an "Event of Default" under any other Transaction Document.

(4) The Company shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due.

(5) The Company shall conceal, remove or permit to be concealed or removed any part of its Property, with intent to hinder, delay or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall suffer or permit, while insolvent, any creditor to obtain a

Lien upon any of its Property through legal proceedings or distraint which is not vacated within ten (10) days from the date thereof.

(6) (a) The filing by the Company (as debtor) of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy or insolvency statute; (b) the failure by the Company within thirty (30) days to lift any execution, garnishment or attachment of such consequence as will impair the Company's ability to carry out its obligations hereunder; (c) the commencement of a case under Title 11 of the United States Code against the Company as the debtor or commencement under any other federal or state bankruptcy or insolvency statute of a case, action or proceeding against the Company and continuation of such case, action or proceeding without dismissal for a period of thirty (30) days; (d) the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company; or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver, liquidator or trustee of the whole or a substantial portion of the Property of the Company, unless such order, judgment or decree is vacated, dismissed or dissolved within thirty (30) days of such appointment.

(7) If any interest in the Company shall be sold, assigned, transferred, conveyed, mortgaged, pledged, hypothecated or alienated, or if any shareholder, partner or member of the Company enters into an agreement or contract to do so, without the prior written consent of the Agency, except as set forth in Section 2.2(S) of this Lease.

(8) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

(9) The removal of the Project Facility, or any portion thereof, outside the County, without the prior written consent of the Agency, other than in connection with a removal permitted under Section 9.3(G) of this Lease.

(10) If any certificate, statement, representation, warranty or financial statement made to the Agency by or on behalf of the Company or any Guarantor shall prove to have been false, misleading or incorrect in any material respect at the time as of which the facts therein set forth were made, or to have omitted any material liability or claim against the Company or any Guarantor, as the case may be.

(11) If the environmental or ecological condition of the Project Facility is in violation of any Environmental Law or any permit, license or approval related thereto or if the Project Facility, or any portion thereof, contains any Hazardous Materials (except Hazardous Materials which do not violate Environmental Laws), and the Company is unable to comply with such Environmental Laws within twenty (20) days of the notification or discovery of such violation or complete all appropriate and lawful remedial containment and clean-up action within twenty (20) days of the notification or discovery of the existence of such Hazardous Materials.

(12) Any loss or impairment of the Agency's interest in and to the Project Facility, or any portion thereof.

(13) The Company, any Guarantor or any Affiliate thereof or any director, member, manager, partner or shareholder of the Company or any Guarantor, as applicable, becomes a Prohibited Person.

(14) Any assignment of the Company Lease or this Lease, in whole or in part, or any letting or sub-subletting of the Project Facility, or any portion thereof, in violation of the terms of this Lease.

(15) A default or an Event of Default shall occur under the Project Agreement or under any other document, instrument or agreement executed and delivered by Publishers in connection with the Project Agreement (each, a "Publishers Default"); provided, however, that the Agency's rights and remedies with respect to a Publishers Default shall be limited as set forth in Section 10.2(C) hereof.

(16) A default or an Event of Default shall occur under the Company Lease, the Bank Mortgage or under any other Permitted Encumbrance.

(17) If any of the events enumerated in clauses (4) through (6) of this Section 10.1 shall happen to any Guarantor.

(18) If the Company shall fail to maintain or cause to be maintained the Minimum Employment Requirement at any time during the term of this Lease.

(19) The Company or any Guarantor defaults under or attempts to withdraw, renege, cancel or disclaim liability under any guaranty or indemnity made by such party in favor of the Agency, including, without limitation, the Environmental Indemnification.

(20) If the Company shall cease all or substantially all of its operations at the Project Facility.

(21) Failure by the Company at any time to keep in full force and effect the insurance policies and coverages required by Section 6.3 of this Lease.

(22) The Company shall fail (i) to commence the Initial Work as contemplated by Section 4.1 of this Lease within one hundred eighty (180) days after the Closing Date, or (ii) to continue with due diligence to perform or cause to be performed the Initial Work as contemplated by Section 4.1 of this Lease, or (iii) to substantially complete such Initial Work on or before the Scheduled Completion Date.

(B) Notwithstanding the provisions of Section 10.1(A) hereof if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Lease and if such party shall give notice and full particulars of such force majeure event or cause in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the

continuance of the inability to perform. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (B), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required under this Lease, to obtain and continue in full force and effect the insurance required by Article VI hereof, to provide the indemnity required by Sections 2.2(G), 3.1, 3.3, 4.1(F), 6.1, 8.2 and 12.9(C) hereof and to comply with the provisions of Sections 2.2(G), 6.6, 8.2, 8.4, 8.5 and 8.7(C) hereof. The term "force majeure" as used herein shall include acts outside of the control of the Agency and the Company, including, but not limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, restraint of government and people, civil disturbances, breakage or accident to transmission pipes or canals, and failure of utilities.

## SECTION 10.2 REMEDIES ON DEFAULT.

(A) Whenever any Event of Default shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 hereof, and (b) all other payments due under this Lease or any of the other Transaction Documents, including, without limitation, any resulting Recapture of Benefits under Section 11.4 of this Lease; or

(2) re-enter and take possession of the Project Facility, enforce or terminate this Lease, sell or assign the Agency's interest in the Project Facility, subject to Permitted Encumbrances, at public or private sale, as a whole or piecemeal, in whole or in part, for such consideration as may be deemed appropriate in the circumstances by the Agency, and hold the Company liable for the amount, if any, by which the aggregate unpaid amounts due hereunder exceed the Net Proceeds received upon such sale, or manage and operate the Project Facility, collect all or any rents accruing therefrom, let or relet the Project Facility or any part thereof for the Agency's own account or the account of the Company, holding the Company liable for payments due up to the effective date of such leasing and for the difference in the rent and other amounts paid by the lessee pursuant to such lease and the rental payments and other amounts payable by the Company hereunder, cancel or modify leases (including, without limitation, any Sublease Agreement), evict tenants (including, without limitation, any Sublessee), bring or defend any suits in connection with the possession of the Project Facility in its own name or in the Company's name, make repairs as the Agency deems appropriate, and perform such other acts in connection with the management, operation or disposition of the Project Facility, or any portion thereof, as the Agency, in its discretion, may deem proper; or

(3) terminate this Lease and/or terminate the Company Lease and/or convey to the Company all the Agency's right, title and interest in and to the Project Facility. The conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the execution by the Agency of the Termination of Lease and/or the

Termination of Company Lease and/or the delivery of the Bill of Sale to Company, as applicable. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such termination and conveyance. The Company hereby waives delivery and acceptance of such termination and bill of sale 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 or filing of such documents; or

(4) bring an action for damages, injunction or specific performance; or

(5) suspend the right of the Company (and its contractors and subcontractors approved by the Agency) to act as agent for the Agency in connection with the Project, including, without limitation, as its agent for the purpose of the sales and use tax exemption afforded to the Company pursuant to this Lease; or

(6) require the Company to make payments in lieu of real property taxes under the PILOT Agreement in amounts equal to the amounts the Company would otherwise be required to pay if the Company were the owner of the Project Facility (and the Agency did not hold an interest therein); or

(7) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Company under this Lease.

(B) No action taken pursuant to this Section 10.2 (including repossession of the Project Facility) shall relieve the Company from its obligations to make all payments required by this Lease and the other Transaction Documents.

(C) Notwithstanding the foregoing, with respect to an Event of Default arising solely as a result of the occurrence of a default under Section 10.1(A)(15) of this Lease, the Agency's remedy with respect thereto as against the Company shall be as set forth in Section 24 of the PILOT Agreement.

**SECTION 10.3 REMEDIES CUMULATIVE.** No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**SECTION 10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.** In the event the Company should default under any of the provisions of this Lease or any other Transaction Document and the Agency should retain attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of

any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency such fees and expenses (including, without limitation, attorneys' fees and expenses) so incurred, whether an action is commenced or not.

**SECTION 10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any agreement contained herein should be breached by either party and thereafter such breach be 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.

## ARTICLE XI OPTIONS TO TERMINATE

**SECTION 11.1 EARLY TERMINATION OF THE LEASE.** The Company shall have the option to terminate this Lease at any time prior to the termination date specified in Section 5.2 hereof by filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section 11.1 and setting forth the effective date of such termination, which effective date shall not be less than thirty (30) days after the delivery of the certificate to the Agency. The exercise of the option to terminate pursuant to this Section 11.1 shall constitute a "Recapture Event" (as such term is defined in Section 11.4 hereof). The Company shall not, at any time, assign or transfer its option to terminate this Lease and purchase the Agency's interest in the Project Facility as contained in this Section 11.1 separate and apart from a permitted assignment of this Lease pursuant to Section 9.1 of this Lease.

### SECTION 11.2 OBLIGATION TO TERMINATE THE LEASE.

(A) Contemporaneously with the termination of this Lease in accordance with Section 5.2 or Section 11.1 hereof, the Company shall pay all sums required to be paid to the Agency or any other Person pursuant to this Lease and the other Transaction Documents (including any applicable Recapture of Benefits). The obligation of the Agency under this Section 11.2 to convey its interest in the Project Facility to the Company will be subject to there being no Event of Default existing hereunder or under any other Transaction Document, and there being no other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default.

(B) The termination of this Lease and the conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the execution and delivery by the Agency of (1) the Termination of Company Lease (an unexecuted copy of which is attached hereto as Exhibit C), (2) the Bill of Sale to Company (an unexecuted copy of which is attached hereto as Exhibit D) and (3) the Termination of Lease (an unexecuted copy of which is attached hereto as Exhibit F). The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such termination, including, without limitation, all of the Agency's reasonable costs and expenses in connection therewith (including reasonable attorneys' fees and expenses).

(C) The Company agrees to prepare the Termination of Company Lease, the Bill of Sale to Company and/or the Termination of Lease, and all schedules thereto, together with all

equalization and assessment forms and other necessary documentation, and to forward same to the Agency at least fifteen (15) days prior to the date that this Lease is to be terminated and the Agency's interest in the Project Facility or any portion thereof is to be conveyed to the Company. The Company hereby irrevocably appoints and designates the Agency as its attorney-in-fact for the purpose of executing, delivering and/or recording such documents and to take such other and further action as shall be necessary to terminate the Agency's interest in the Project Facility.

(D) This Lease shall survive the transfer of the Project Facility to the Company pursuant to this Section 11.2 and shall remain in full force and effect until ninety-one (91) days after all of the Indebtedness shall have been paid in full, and thereafter the obligations of the Company shall survive as set forth in Section 12.7 hereof.

(E) Upon the payment in full of all Indebtedness, and notwithstanding the survival of certain obligations of the Company as described in Section 12.7 hereof, the Agency shall upon the request of the Company execute and deliver to the Company such documents as the Company may reasonably request, in recordable form if so requested, to evidence the termination and release of all Liens granted to the Agency hereunder.

SECTION 11.3        RESERVED.

SECTION 11.4        RECAPTURE OF AGENCY BENEFITS.

(A) It is understood and agreed by the parties to this Lease that the Agency is entering into this Lease in order to provide the Financial Assistance to the Company for the Project and to accomplish the purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event (as hereinafter defined), then the Company shall pay to the Agency as a return of public benefits conferred by the Agency, an amount as follows (such amount, the "Recapture of Benefits"):

(1) one hundred percent (100%) of the Benefits (as defined below) if the Recapture Event occurs on or before December 31, 2028;

(2) eighty percent (80%) of the Benefits if the Recapture Event occurs after December 31, 2028 but on or before December 31, 2030;

(3) sixty percent (60%) of the Benefits if the Recapture Event occurs after December 31, 2030 but on or before December 31, 2032;

(4) forty percent (40%) of the Benefits if the Recapture Event occurs after December 31, 2032 but on or before December 31, 2034;

(5) twenty percent (20%) of the Benefits if the Recapture Event occurs after December 31, 2034 but on or before December 31, 2036;

(6) ten percent (10%) of the Benefits if the Recapture Event occurs after December 31, 2036 but on or before December 31, 2038; or

(7) zero percent (0%) of the Benefits thereafter.

(B) The term “Benefits” shall mean the Agency’s calculation of, collectively:

(1) all real estate tax benefits which have accrued to the benefit of the Company during such time as the Agency held an interest in the Project Facility by reason of such interest, such tax benefits to be computed by subtracting the payments in lieu of taxes paid under the PILOT Agreement (through the date the Project Facility is returned to the tax rolls as taxable property) from those payments which the Company would have been required to pay through such date had the Company been the owner of the Project Facility and the Agency not been involved in the Project, based on the applicable tax assessor’s records, and treating any negative result as \$0; and

(2) all miscellaneous benefits derived from the Agency’s participation in the transactions contemplated by this Lease, including, but not limited to, any exemption from real property transfer taxes, any exemption from mortgage recording taxes and any exemption from applicable sales and use taxes; provided, however, that (i) such miscellaneous benefits shall not be deemed to mean or include any sales and use tax exemption provided to Publishers pursuant to the Project Agreement, and (ii) the recapture of the value of any exemption from sales and/or use taxes shall be in the full amount of any exemption taken and shall not be subject to the scheduled percentage reduction set forth in Subsection (A) above.

(C) For the purposes of this Section 11.4 the term “Recapture Event” shall mean the occurrence of any of the following events:

(1) The Company shall have liquidated its operations and/or assets; or

(2) The Company shall have ceased all or substantially all of its operations at the Project Facility (whether by closure or by relocation to another facility either within or outside of the County); or

(3) The Company shall have transferred all or substantially all of its employees engaged in the renovation, maintenance or operation of the Project Facility to a location outside of the County; or

(4) The occurrence of an Event of Default under this Lease or any other Transaction Document; provided, however, if such Event of Default arises solely as a result of the occurrence of a default under Section 10.1(A)(15) of this Lease, the Agency’s remedy with respect thereto as against the Company shall be as set forth in Section 24 of the PILOT Agreement; or

(5) The Company shall have effected a substantial change in the scope and nature of the operations of the Company at the Project Facility; or

(6) The Company shall have sold, leased, subleased, sub-subleased, assigned, transferred or otherwise disposed of all or any part of its interest in the Project Facility in violation of this Lease; or



(7) The Company shall have subleased, sub-subleased, licensed or otherwise granted an occupancy agreement with respect to any portion of the Project Facility in violation of this Lease; or

(8) The Company or its Affiliate(s) fail to maintain or cause to be maintained, as the case may be, the Minimum Employment Requirement at any time during the term of this Lease; or

(9) The Application, or documentation in support of the Application, contained a false or intentionally misleading statement as to any fact material to the Application or omitted any information which, if included, would have rendered any information in the Application or supporting documentation false or misleading in any material respect, and such false or misleading statement or omission was made knowingly and intentionally for the purpose of obtaining the Financial Assistance; or

(10) The Company shall fail (i) to commence the Initial Work as contemplated by Section 4.1 of this Lease within one hundred eighty (180) days after the Closing Date, or (ii) to continue with due diligence to perform the Initial Work as contemplated by Section 4.1 of this Lease, or (iii) to complete the Initial Work on or before the Scheduled Completion Date.

(11) The occurrence of a Recapture Event under the Project Agreement; provided, however, that the Agency's remedy with respect to such Recapture Event as against the Company shall be as set forth in Section 24 of the PILOT Agreement.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct, immediate result of (i) a Condemnation by governmental authority of all or substantially all of the Project Facility or any interest therein, or (ii) the inability at law of the Company to rebuild, repair, restore or replace the Project Facility after the occurrence of a casualty to substantially its condition prior to such casualty, which inability shall have arisen in good faith through no fault on the part of the Company.

(D) The Company covenants and agrees to furnish the Agency with written notification upon the occurrence of any Recapture Event, which notification shall set forth the terms of such Recapture Event.

(E) In the event any payment owing by the Company under this Section 11.4 shall not be paid on demand by the Company, such payment shall bear interest from the date of such demand at the Default Interest Rate until the Company shall have paid such payment in full, together with such accrued interest to the date of payment, to the Agency.

## ARTICLE XII MISCELLANEOUS

### SECTION 12.1 NOTICES.

(A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of (1) three (3)

Business Days after being sent to the applicable address stated below by registered or certified mail, return receipt requested, or two (2) Business Days after being sent by nationally recognized overnight courier service, or (2) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

**IF TO THE COMPANY:**

c/o We're Associates Company  
100 Jericho Quadrangle  
Jericho, NY 11753  
Attn: Bennett Rechler

**IF TO THE AGENCY:**

Nassau County Industrial Development Agency  
1550 Franklin Avenue, Suite 235  
Mineola, NY 11501  
Attn: Executive Director

**WITH A COPY TO:**

Phillips Lytle LLP  
1305 Franklin Avenue, Suite 200  
Garden City, NY 11530  
Attn: Paul V. O'Brien, Esq.

(C) The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

**SECTION 12.2 BINDING EFFECT.** This Lease shall inure to the benefit of the Agency and the Company and shall be binding upon the Agency, the Company and, as permitted by this Lease, their respective successors and assigns, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the Agency.

**SECTION 12.3 SEVERABILITY.** If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be held void, voidable, invalid or unenforceable by a court of competent jurisdiction, then such covenant or covenants or

agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Lease.

**SECTION 12.4 AMENDMENT.** This Lease may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

**SECTION 12.5 EXECUTION OF COUNTERPARTS.** This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 12.6 APPLICABLE LAW.** This Lease shall be governed by and construed in accordance with the applicable laws of the State, as in effect from time to time, without regard to its principles of conflicts of law.

**SECTION 12.7 SURVIVAL OF OBLIGATIONS.**

(A) The obligations of the Company to make the payments required by Sections 2.2(G), 3.1., 3.3, 4.1, 5.3, 5.4, 6.4(B), 6.6, 8.2, 8.9, 8.12, 9.1, 9.3, 10.2, 10.4, 11.2 and 11.4 hereof and to provide the indemnity required by Sections 2.2(G), 3.1, 3.3, 4.1(F), 6.1, 8.2 and 12.9(C) hereof and its obligations and those of the Guarantor under the Environmental Indemnification shall survive the termination of this Lease, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(B) The obligations of the Company to the Agency with respect to the Unassigned Rights shall survive the termination or expiration of this Lease until the expiration of the period stated in the applicable statute of limitation during which a claim, cause of action or prosecution relating to the Unassigned Rights may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents (other than the Company), attorneys, servants or employees, past, present or future, related thereto.

**SECTION 12.8 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.** The Table of Contents and the headings of the several Sections in this Lease have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Lease.

**SECTION 12.9 NO RECOURSE; SPECIAL OBLIGATION.**

(A) The obligations and agreements of the Agency contained herein and in the other Transaction Documents and any other instrument or document executed in connection therewith or herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company), servant or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company), servants and employees, past, present and future, of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State or the County and neither the State nor the County shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Agency's interest in the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) business days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) business days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten (10) business day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company), servants or employees, past, present or future, shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and hold harmless the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company), servants and employees, past, present and future, against all liability expected to be incurred as a result of compliance with such request.

**SECTION 12.10 NET LEASE.** The obligation of the Company to make the payments specified in this Lease shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Lease shall yield, net, to the Agency, the payments set forth herein.

**SECTION 12.11 WAIVER OF JURY TRIAL.** THE COMPANY AND THE AGENCY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE, ANY OTHER TRANSACTION DOCUMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THIS LEASE.

**SECTION 12.12 PRIOR AGREEMENTS.** This Lease shall completely and fully supersede all other prior understandings or agreements, written or oral, between the Company and the Agency relating to the Project.

## SECTION 12.13 SERVICE OF PROCESS.

(A) The Company represents that it is subject to service of process in the State of New York and covenants that it will remain so subject so long as this Lease shall be in effect. If for any reason the Company should cease to be so subject to service of process in the State of New York, the Company hereby designates and appoints, without power of revocation, William Cornachio, Esq., c/o Rivkin Radler LLP, 926 RXR Plaza, Uniondale, NY 11556, and successor(s) as its agent for service of process, and if such agent shall cease to act or otherwise cease to be subject to service of process in the State of New York, the Secretary of State of the State of New York, as the agents of the Company upon whom may be served all process, pleadings, notices or other papers which may be served upon the Company as a result of any of its obligations under this Lease; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Company's obligations hereunder.

(B) The Company irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Lease or the other Transaction Documents may be brought in the courts of record of the State of New York in Nassau County or the courts of the United States, Eastern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as this Lease is in effect, the Company's agents designated above shall accept and acknowledge in the Company's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Company agrees and consents that any such service of process upon such agents and written notice of such service to the Company in the manner set forth in Section 12.1 hereof shall be taken and held to be valid personal service upon the Company whether or not the Company shall then be doing, or at any time shall have done, business within the State of New York and that any such service of process shall be of the same force and validity as if service were made upon the Company according to the laws governing the validity and requirements of such service in the State of New York, 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 Company or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Company.

SECTION 12.14 THIRD PARTY BENEFICIARIES. Nothing herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

## SECTION 12.15 NON-DISCRIMINATION.

(A) At all times during the term of this Lease, the Company shall not discriminate against any employee or applicant for employment because of race, color, creed, age, gender, sexual orientation or national origin. The Company shall use reasonable efforts to ensure that employees and applicants for employment with the Company, or any contractor or subcontractor with respect to the Project Facility, or any part thereof, are treated without regard to their race, color, creed, age, gender, sexual orientation or national origin. As used herein, the term "treated" shall mean and include, without limitation, 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 Company shall, in all solicitations or advertisements for employees placed by or on behalf of the Company, state that all qualified applicants will be considered for employment without regard to race, color, creed, national origin, age, gender or sexual orientation.

(C) The Company shall furnish to the Agency all information required by the Agency pursuant to this Section 12.15 and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section 12.15.

**SECTION 12.16 DATE OF LEASE.** The date of this Lease shall be for reference purposes only and shall not be construed to imply that this Lease was executed on the date first above written. This Lease was executed and delivered on August 5, 2015.

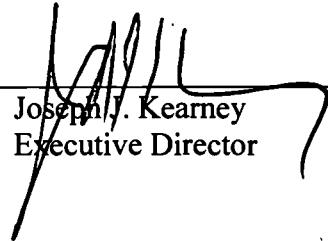
**SECTION 12.17 RECORDING AND FILING.** This Lease or a memorandum hereof shall be recorded by the Company in the appropriate office of the Clerk of the County, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

**SECTION 12.18 SUBORDINATION.** This Lease and all of the Transaction Documents, except for the PILOT Agreement, the PILOT Mortgage, the Agency's rights under Section 11.4 of this Lease and the Agency's rights with respect to the Unassigned Rights under this Lease, shall be subject and subordinate to the lien and the terms and conditions of the Bank Mortgage, including all amounts advanced thereunder and all renewals, modifications and replacements thereof. The Bank Mortgage (including all amounts advanced thereunder and all renewals, modifications and replacements thereof) shall be subject and subordinate to the PILOT Agreement, the PILOT Mortgage, the Agency's rights under Section 11.4 of this Lease and the Agency's rights with respect to the Unassigned Rights under this Lease. This Lease, except with regard to the Agency's Unassigned Rights, is subject and subordinate to the lien of the PILOT Mortgage.

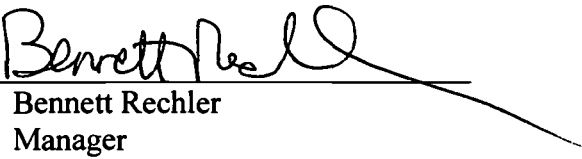
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IN WITNESS WHEREOF, the Agency and the Company have caused this Lease to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Joseph J. Kearney  
Executive Director

JQ III ASSOCIATES, LLC

By:   
Bennett Rechler  
Manager

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

On the 27<sup>th</sup> day of July, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Joseph J. Kearney, 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.

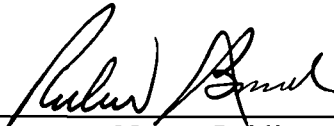


\_\_\_\_\_  
Notary Public

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

**Paul V. O'Brien**  
**Notary Public, State of New York**  
**No. 020B6235944**  
**Qualified in Nassau County**  
**Commission Expires Feb 14, 2016**

On the 5 day of August, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Bennett Rechler, 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

**RICHARD J. BIONDI**  
**Notary Public State of New York**  
**No. 01B15005419**  
**Qualified in Suffolk County**  
**Commission Expires in December 7, 2018**



**EXHIBIT A**  
**DESCRIPTION OF THE LAND**

**See Attached**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at Jericho, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of the property herein described, said point being the intersection of the westerly line of land now or formerly of Joseph J. Dowling with the northerly side of Jericho Turnpike, (said point of intersection is 2,620.00 feet more or less measured westerly along the northerly side of said Jericho Turnpike from the westerly side of Massapequa Glen Cove Road (New York State Route No. 107);

RUNNING THENCE from said point of beginning along said northerly side of Jericho Turnpike (New York State Route 25) south 52 degrees 40 minutes 46 seconds west 692.53 feet;

THENCE north 31 degrees 26 minutes 08 seconds west 1596.70 feet to land now or formerly of the Meadowbrook Country Club;

THENCE along said last mentioned land the following two (2) courses and distances:

1. North 56 degrees 22 minutes 28 seconds east, 466.68 feet
2. South 85 degrees 59 minutes 42 seconds east, 574.42 feet to land now or formerly of Dowling;

THENCE along said last mentioned land the following three (3) courses and distances:

1. South 33 degrees 35 minutes 14 seconds east, 257.32 feet;
2. South 01 degrees 38 minutes 04 seconds east, 445.70 feet;
3. South 28 degrees 02 minutes 32 seconds east, 567.55 feet to the northerly side of Jericho Turnpike, the point or place of BEGINNING.

TOGETHER with the benefits, but subject to the burdens of that certain Reciprocal Easement Declaration dated as of March 4, 1980 made by We're Associates Company, as parties of the 1st, 2nd and 3rd parts recorded in the Office of the Clerk, County of Nassau on March 11, 1980 in Liber 9257 of Deeds page 526; which Reciprocal Easement was modified by Reciprocal Easement Agreement dated as of March 4, 1982 made by We're Associates Company, as parties of the 1st, 2nd and 3rd parts recorded in the Office of the Clerk, County of Nassau on February 22, 1982 in Liber 9397 of Deeds page 296; and as further amended by Amendment to

Underwriter No. 3515-0148-46130  
Title Number ECA46130

Page 2

Reciprocal Easement Agreement and Declaration dated as of December 7, 1998 made among We're Associates Company as parties of the 1st and 2nd part of JQ III Associates, party of the 3rd part recorded in the Office of the Clerk, County of Nassau in Liber 11015 Cp 320.

Said premises being commonly known as 300 Jericho Quadrangle, Jericho, New York

SECTION 17 BLOCK 11 LOT 50

## EXHIBIT B

### DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and other items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition, renovation, installation and equipping of the 2015 JQ III Associates Project (the "Project") of the Nassau County Industrial Development Agency (the "Agency") located, in part, on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, renovated and installed by JQ III Associates, LLC (the "Company") as agent of the Agency pursuant to a sublease agreement dated as of August 1, 2015 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

(1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors and machinery; and

(2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above;

BUT excluding any property described above that is owned by any Sublessee of the Project Facility, or any part thereof.

EXHIBIT C

FORM OF TERMINATION OF COMPANY LEASE

WHEREAS, JQ III Associates, LLC (the "Company"), as landlord, and the Nassau County Industrial Development Agency (the "Agency"), as tenant, entered into a company lease agreement dated as of August 1, 2015 (the "Company Lease Agreement") pursuant to which, among other things, the Agency leased the Project Facility (as defined in the Lease Agreement) from the Company; and

WHEREAS, pursuant to the Company Lease Agreement, the Company and the Agency agreed that the Company Lease Agreement would terminate on the earlier to occur of (1) December 31, 2038 (the "Stated Expiration Date"), or (2) any earlier date the Company Lease Agreement would terminate pursuant to the terms thereof; and

WHEREAS, the Company and the Agency now desires to evidence the termination of the Company Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Company Lease Agreement has terminated as of the dated date hereof; provided, however, that, (i) as provided in the Company Lease Agreement, certain obligations of the Company shall survive the termination of the Company Lease Agreement, and the execution of this termination of company lease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions thereof that expressly survive such termination; and (ii) in the event the Company Lease Agreement is being terminated pursuant to Article X or XI of the Lease Agreement, the Company shall pay to the Agency on the date hereof all fees and expenses of the Agency set forth in the Company Lease Agreement, in the Lease and in the other Transaction Documents.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of company lease agreement and caused same to be dated as of the \_\_ day of \_\_\_\_\_, \_\_\_\_.

JQ III ASSOCIATES, LLC

By: \_\_\_\_\_  
Authorized Officer

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Authorized Officer

STATE OF )  
 ) ss.:  
COUNTY OF )

On the \_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF )  
 ) ss.:  
COUNTY OF )

On the \_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

EXHIBIT D

FORM OF BILL OF SALE TO COMPANY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Grantor"), for the consideration of One Dollar (\$ 1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from, JQ III ASSOCIATES, LLC, a limited liability company organized and existing under the laws of the State of New York, having an office for the transaction of business at 100 Jericho Quadrangle, Jericho, NY 11753 (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee, and its successors and assigns, any and all of Grantor's right, title and interest, if any, in and to those materials, machinery, equipment, fixtures and furnishings which are described in Exhibit B attached hereto (the "Equipment") now owned or hereafter acquired by the Grantor, which Equipment is located or intended to be located on a parcel of land (the "Land") located at 300 Jericho Quadrangle, Jericho, Town of Oyster Bay, Nassau County, New York, which Land is more particularly described on Exhibit A attached hereto.

TO HAVE AND TO HOLD the same unto the Grantee, and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_

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

On the \_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individuals), or the person upon behalf of which the individuals) acted, executed the instrument.

---

Notary Public



**EXHIBIT A**  
**DESCRIPTION OF THE LAND**

**See Attached**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at Jericho, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at the southeasterly corner of the property herein described, said point being the intersection of the westerly line of land now or formerly of Joseph J. Dowling with the northerly side of Jericho Turnpike, (said point of intersection is 2,620.00 feet more or less measured westerly along the northerly side of said Jericho Turnpike from the westerly side of Massapequa Glen Cove Road (New York State Route No. 107);

RUNNING THENCE from said point of beginning along said northerly side of Jericho Turnpike (New York State Route 25) south 52 degrees 40 minutes 46 seconds west 692.53 feet;

THENCE north 31 degrees 26 minutes 08 seconds west 1596.70 feet to land now or formerly of the Meadowbrook Country Club;

THENCE along said last mentioned land the following two (2) courses and distances:

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TOGETHER with the benefits, but subject to the burdens of that certain Reciprocal Easement Declaration dated as of March 4, 1980 made by We're Associates Company, as parties of the 1st, 2nd and 3rd parts recorded in the Office of the Clerk, County of Nassau on March 11, 1980 in Liber 9257 of Deeds page 526; which Reciprocal Easement was modified by Reciprocal Easement Agreement dated as of March 4, 1982 made by We're Associates Company, as parties of the 1st, 2nd and 3rd parts recorded in the Office of the Clerk, County of Nassau on February 22, 1982 in Liber 9397 of Deeds page 296; and as further amended by Amendment to

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Reciprocal Easement Agreement and Declaration dated as of December 7, 1998 made among We're Associates Company as parties of the 1st and 2nd part of JQ III Associates, party of the 3rd part recorded in the Office of the Clerk, County of Nassau in Liber 11015 Cp 320.

Said premises being commonly known as 300 Jericho Quadrangle, Jericho, New York .

SECTION 17 BLOCK 11 LOT 50

## EXHIBIT B

### DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and other items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition, renovation, installation and equipping of the 2015 JQ III Associates Project (the "Project") of the Nassau County Industrial Development Agency (the "Agency") located, in part, on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, renovated and installed by JQ III Associates, LLC (the "Company") as agent of the Agency pursuant to a sublease agreement dated as of August 1, 2015 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

(1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors and machinery; and

(2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above;

BUT excluding any property described above that is owned by any Sublessee of the Project Facility, or any part thereof.

**EXHIBIT E**  
**FORM OF SALES TAX AGENCY AGREEMENT**

**See Attached**

**SALES TAX AGENCY AGREEMENT**

August 3, 2015

JQ III Associates, LLC  
c/o We're Associates  
100 Jericho Quadrangle  
Jericho, NY 11753

Re: Nassau County Industrial Development Agency  
(2015 JQ III Project)

Ladies and Gentlemen:

The Nassau County Industrial Development Agency (the "Agency") and JQ III Associates, LLC (the "Company") agree as follows:

1. 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, including the acquisition of property, is exempt from the imposition of any New York State or Nassau County sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required.

2. Pursuant to a resolution adopted by the Agency on June 30, 2015 (the "Authorizing Resolution") and a Sublease Agreement, dated as of July 1, 2015 (as amended, modified, supplemented or restated, the "Lease Agreement"), between the Agency and the

Company, the Agency has authorized the Company to act as its agent to acquire, renovate, install and equip a commercial facility in Nassau County, New York, consisting of (A)(1) the acquisition of an interest in an approximately 29.94 acre parcel of land located at 300 Jericho Quadrangle, Jericho, Town of Oyster Bay, Nassau County, New York (Section: 17; Block: 11; Lot: 50) (the "Land"), (2) the renovation of the existing approximately 305,000 square foot building (the "Building") on the Land, together with related improvements to the Land, and (3) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment"), all of the foregoing for use by the Company as a multi-tenant office facility (collectively, the "Project Facility"); provided, however, that nothing herein shall constitute an authorization to claim an exemption from sales and use taxes with respect to any improvements to the Land or Building or the acquisition or installation of any Equipment for subtenants or occupants (other than the Company and Publishers Clearing House LLC) of the Project Facility.

3. In connection with the Authorizing Resolution and the Lease Agreement, and pursuant to the authorization therein granted, the Agency authorizes the Company to act as its agent in connection with the Initial Work (as defined in Schedule A hereto) and authorizes the Company to use this agreement as its agent only for the payment of the costs of such Initial Work.

4. As agent for the Agency, the Company agrees that each contract, agreement, lease, invoice, bill or purchase order entered into by the Company as agent for the Agency for the Initial Work shall include language in substantially the following form:

"This [contract, agreement, lease, invoice, bill or purchase order] is being entered into by JQ III Associates, LLC (the "Agent"), as approved agent for and on behalf of the Nassau County Industrial Development Agency (the "Agency") in connection with a certain project (the "Project") of the Agency for JQ III Associates, LLC (the "Company") consisting in part of certain renovation, installation and equipping of an office building located at 300 Jericho Quadrangle, Jericho, Town of Oyster Bay, County of Nassau, New York (the "Premises") and the acquisition of certain capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property necessary for the completion of the Initial Work (as defined in the attached Sales Tax Agency Agreement) on the Premises. The capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property necessary for completion of the Initial Work which are the subject of this [contract, agreement, lease, invoice, bill or purchase order] shall be exempt from the sales and use taxes levied by the State of New York and the County of Nassau if effected in accordance with the terms and conditions set forth in the attached Sales Tax Agency Agreement of the Agency, and the Agent hereby represents that this [contract, agreement, lease, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Agency Agreement.

This [contract, agreement, lease, invoice, bill or purchase order] is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this [contract, agreement, lease, invoice, bill or purchase order], the [vendor, lessor, licensor, contractor or subcontractor] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

5. The acquisition of capital improvements, materials, machinery, equipment, trade fixtures, furniture, furnishings and other tangible personal property necessary for the completion of the Project Facility (collectively, the “Property”) shall be exempt from the sales and use taxes levied by the State of New York and the County of Nassau on the condition that (i) such items of Property are separately identifiable property of the Agency, and (ii) each item of Property shall have a useful life of one year or more, and shall solely be for the use of the Company at and in the Project Facility, and for no other entity and at no other location, and shall be effected by and at the sole cost of the Company. The exemption provided pursuant to Section 4.1(E) of the Lease Agreement shall not apply to the acquisition of: (i) inventory, (ii) rolling stock, (iii) any item of personalty having a useful life of less than one (1) year or which shall not constitute a tangible capital asset, (iv) plants, shrubs, trees, flowers, lawns or plants, (v) fine art or other similar decorative items, or (vi) motor vehicles, including any cars, trucks, vans or buses that are licensed by the Department of Motor Vehicles or other similar agency for use on public highways or streets.

6. The Agency shall have no liability or performance obligations under any contract, agreement, lease, invoice, bill or purchase order entered into by the Company, as agent for the Agency pursuant to Section 4.1(E) of the Lease Agreement, and in the event liability should arise under any such contract, agreement, lease, invoice, bill, or purchase order, the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, lease, invoice, bill or purchase order in any manner and to any extent whatsoever, and the Company shall be the sole party liable thereunder.

7. By execution of its acceptance of the terms of this Agreement, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of this Agreement by the Company is and will be strictly for the purposes above stated.

8. Until the earliest of (i) December 31, 2017, (ii) the completion of the Initial Work as provided in the Lease Agreement, (iii) the receipt by the Company of the Maximum Sales Tax Benefit (as defined in the Lease Agreement), and (iv) the termination of the Lease Agreement and/or revocation of the appointment of the Company as agent of the Agency (the earliest to occur of the foregoing, the “Termination Date”), all vendors, lessors, licensors, contractors and subcontractors are hereby authorized to rely on the ST-123 Form prepared by the Company and issued to such vendor, lessor, licensor, contractor or subcontractor pursuant to Paragraph 12 hereof as evidence that purchases and leases of Property, and improvement and installation contracts relating to the Initial Work, to the extent effected by the Company, as agent for the Agency, are exempt from all New York State and Nassau County sales and use taxes.



9. Any vendor, lessor, licensor, contractor or subcontractor that does not collect otherwise applicable sales or use tax in reliance upon this Agreement and the ST-123 Form issued by the Company to such vendor, lessor, licensor, contractor or subcontractor, shall be deemed to have acknowledged and agreed to the provisions of Paragraph 4 hereof regardless of whether or not the provisions thereof are inserted in the contract, agreement, lease, invoice, bill or purchase order entered into with the Company.

10. This Agreement and the ST-123 Form issued by the Company to a vendor, lessor, licensor, contractor or subcontractor are provided solely for the purposes described herein and therein. No other principal/agent relationship is intended or may be implied or inferred from this Agreement or the issuance of such ST-123 Form.

11. The exemption from sales and use taxes provided under the Lease Agreement is granted subject to the requirements of Section 875 of the General Municipal Law, which requirements are incorporated herein by reference, and the Company agrees to such requirements as a condition precedent to receiving the exemption from sales and use taxes.

12. The Company agrees to provide a completed Form ST-123, *IDA Agent or Project Operator Exempt Purchase Certificate*, to each vendor, lessor, licensor, contractor or subcontractor from which the Company purchases and/or leases Property, or with which the Company enters into an improvement or installation contract relating to the Initial Work. All vendors, lessors, licensors, contractors and subcontractors are authorized to rely on such completed Form ST-123 as evidence that purchases and leases of Property, and improvement and installation contracts relating to the Initial Work (but not the operation thereof), to the extent effected by the Company as agent for the Agency pursuant to Section 4.1(E) of the Lease Agreement, are exempt from all New York State and Nassau County sales and use taxes. The Company agrees to provide the Agency a copy of each such Form ST-123 within five (5) days after the delivery of such form to the vendor, lessor, licensor, contractor or subcontractor.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The signature of a representative of the Company where indicated below will indicate that the Company has accepted the terms hereof.

**NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

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

Name: Joseph J. Kearney

Title: Executive Director

**ACCEPTED AND AGREED TO BY:**

**JQ III ASSOCIATES, LLC**

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

Name: Bennett Rechler

Title: Manager

## **SCHEDULE A**

### **Initial Work**

(1) repair, restore and/or replace existing base building systems and infrastructure of the Building, including, but not limited to, repair, restoration and/or replacement of roofing, façade, flooring, fire protection, HVAC, parking fields, water treatment (storage and distribution), wastewater (collection and treatment), electrical, telecommunications, mechanical and plumbing components of the Building;

(2) installation of energy efficiency improvements to the Building, including, without limitation, the installation of energy-efficient lighting and other electrical systems throughout the Building, with the goal that energy usage at the Building will be reduced by a minimum of fifteen percent (15%).

EXHIBIT F

TERMINATION OF SUBLEASE AGREEMENT

WHEREAS, JQ III ASSOCIATES LLC (the "Company"), as subtenant, and the Nassau County Industrial Development Agency (the "Agency"), as sublandlord, entered into a lease agreement dated as of August 1, 2015 (the "Lease Agreement") pursuant to which, among other things, the Agency subleased the Project Facility (as defined in the Lease Agreement) to the Company; and

WHEREAS, pursuant to the Lease Agreement, the Company and the Agency agreed that the Lease Agreement would terminate on the earlier to occur of (1) December 31, 2038 or (2) the date the Lease Agreement would terminate pursuant to Article X or Article XI of the Lease Agreement; and

WHEREAS, the Company and the Agency now desires to evidence the termination of the Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Lease Agreement has terminated as of the dated date hereof; provided, however, that, as provided in Section 12.7 of the Lease Agreement, certain obligations of the Company shall survive the termination of the Lease Agreement, and the execution of this termination of sublease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions of Sections 11.4 and 12.7 of the Lease Agreement.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of sublease agreement and caused same to be dated as of the \_\_ day of \_\_\_\_\_, \_\_\_\_.

[ \_\_\_\_\_ ]

By: \_\_\_\_\_  
Authorized Officer

NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Authorized Officer

STATE OF )  
 ) ss.:  
COUNTY OF )

On the \_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF )  
 ) ss.:  
COUNTY OF )

On the \_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

EXHIBIT G  
FORMS OF ANNUAL  
EMPLOYMENT REPORT

EMPLOYMENT PLAN STATUS REPORT

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TYPE OF BUSINESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

<u>Occupation</u>	<u>Number of New Jobs</u>	<u>Number Listed<sup>1</sup></u>	<u>Number Filled</u>	
			<u>Community Services Division Applicants</u>	<u>Job Training Partnership Act eligible persons</u>

---

<sup>1/</sup> With local Community Services Division and local service delivery office created pursuant to the Job Training Partnership Act.

This information is reported to the Office of the New York State Comptrollers/Division of  
Municipal Affairs Office and as such the information is required to be accurate.

Contact Person:		Actual Number of Employees as of 12/31/___:  Average Annual Salary of Employees Retained:	F/T/E  \$	
Address of Home Office:  Phone & Fax:		20__ Total Annual Payroll Dollar Amount:	\$	Construction Jobs Created During 20__:  F/T/E
# of Employees before the IDA project:	F/T/E	Actual # of New Employees Hired in Fiscal Year 20__:  Average Annual Salary of Employees Hired:	F/T/E  \$	Average Annual Salary of 20__ Construction Jobs:  \$

**Please attach (1) the fourth quarter form NYS-45 filed with New York State Employment Taxation Department indicating number of employees, and (2) the Undersigned's annual payroll report for year ending 12/31/\_\_. It is not necessary to include Part C. Undersigned, hereby confirms that no leases, subleases or other arrangements permitting the use or occupancy of the facilities subject to this report are in existence, except those expressly authorized in writing by the Nassau County Industrial Development Agency. Undersigned, hereby confirms that no Event of Default under the Transaction Document has occurred and is continuing.**

**Projects that received Sales Tax Benefits in 20\_\_ are required to complete the attached ST-340 form and include a copy of it with this report upon return. The original ST-340 must be filed with the NYS Department of Taxation and Finance, by the undersigned, no later than February 11th.**

Acknowledgement to be completed by a Notary Public  
State of \_\_\_\_\_ County of \_\_\_\_\_, On the \_\_\_ day of \_\_\_ in the  
year \_\_\_\_\_ before me the undersigned, personally appeared  
\_\_\_\_\_ personally known to me or proved to me on the basis  
of satisfactory evidence to be the individual(s) whose name(s) is (are)  
subscribed to the within instrument and acknowledged to me that  
he/she they executed the same in his/her/their, capacity(ies), and that  
by his/her/their signature(s) on the instrument, the individual(s), or the  
person upon behalf of which the individual(s) acted, executed the  
instrument.

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
NOTARY PUBLIC (Please sign and affix stamp)

RETURN TO: NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
1550 FRANKLIN AVENUE-SUITE 235  
MINEOLA, NY 11501

*Attn: Colleen Pereira*  
**\*\*due no later than February 11, 20\_\_**

EXHIBIT H

SCHEDULE OF PRE-CLOSING LEASES

<u>Tenant Name</u>	<u>Date of Lease</u>	<u>Scheduled Expiry Date</u>
Publishers Clearing House LLC	Lease dated January 2015; amended by First Amendment to Lease and Escrow Agreement dated March 26, 2015; superseded by Second Amendment to Lease Agreement and Escrow Agreement dated April 28, 2015; superseded by Third Amendment to Lease Agreement and Escrow Agreement dated as of July 15, 2015; superseded by Fourth Amendment to Lease Agreement and Escrow Agreement dated as of July 29, 2015	Last day of 10th calendar month after the calendar month in which occurs 20th anniversary of Term Commencement Date
Darby Dental Supply, LLC	Agreement of Lease dated as of February 26, 2015; amended by letter dated June 5, 2015	6/30/2027



**EXHIBIT I**

**APPROVED FORM OF SUBLEASE AGREEMENT**

**See Attached**

**AGREEMENT OF LEASE**

made as of this \_\_\_\_ day of June, 2015, by and between **JQ III ASSOCIATES, LLC**, a New York limited liability company, having its principal office at 100 Jericho Quadrangle, Jericho, New York 11753, hereinafter referred to as "Landlord" and **TENANT**, an \_\_\_\_\_ company, with offices located at \_\_\_\_\_, \_\_\_\_\_, hereinafter referred to as "Tenant".

WITNESSETH: Landlord and Tenant hereby covenant and agree as follows:

**SPACE**

1. A. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the upper floor space known as Suite \_\_\_\_, substantially as shown on the rental plan initialed by the parties and made part hereof as Exhibit 1A (the "Office Space"), and lower level space known as Suite LL\_\_, substantially as shown on the rental plan initialed by the parties and made part hereof as Exhibit 1B (the "Storage Space"), both in the building known as 300 Jericho Quadrangle, Jericho, New York, 11753 (the "Building"), the Office Space and Storage Space are together hereinafter referred to as the "Demised Premises". The parties agree that for all purposes of this Lease the Office Space consists of \_\_\_\_ rentable square feet and the Storage Space consists of \_\_\_\_ rentable square feet; therefore the Demised Premises consists of \_\_\_\_\_ rentable square feet. For all purposes under this Lease, the rentable square area of the Demised Premises shall be deemed to the number of rentable square feet attributable thereto, as hereinbefore set forth, irrespective of any disparity between (1) such figure and any actual measurement of such area and (2) the useable area thereof. Tenant shall also be permitted to use, on a non-exclusive basis, in common with other tenants at the Building, the common facilities of the Building. Such use of such facilities shall be subject to such reasonable rules, regulations and procedures governing the use thereof as Landlord shall from time to time promulgate.

B. Landlord has entered into a transaction with the Nassau County Industrial Development Agency ("IDA") pursuant to which Landlord leased the Building to the IDA, and simultaneously leased the Building back from the IDA, with the IDA as sublessor, and Landlord, as sublessee. As a result, Tenant is and acknowledges its status as a sublessee of Landlord, and that this Lease shall serve as a sub-sublease of Landlord's interest in the Building (the "IDA Transaction"). In connection with the foregoing, and as a requirement of this Lease, Tenant shall execute and deliver to the IDA the IDA Terms Sub-Sublease Agreement in the form annexed hereto as Exhibit 2.

**TERM**

2. The term of this lease ("Lease") shall commence on October 1, 2016, hereinafter referred to as the "Term Commencement Date", and shall terminate on \_\_\_\_\_, hereinafter referred to as the "Expiration Date", unless earlier terminated or extended as provided herein. The term of this Lease is hereinafter referred to as the "Demised Term".

**RENT**

3. A. The Base Annual Rent and Base Annual Common Area Electric payable by Tenant for the Office Space shall be as follows:

<u>Lease Year</u>	<u>Base Annual Rent</u>	<u>Base Annual Common Area Electric*</u>	<u>Total Base Annual Rent and Common Area Electric*</u>	<u>Total Base Monthly Rent and Common Area Electric*</u>
10/1/16 – 3/30/17	\$0.00	\$0.00	\$0.00	\$0.00
4/1/17 – 9/30/17	\$	\$	\$	\$
10/1/17 – 9/30/18	\$	\$	\$	\$
10/1/18 – 9/30/19	\$	\$	\$	\$
10/1/19 – 9/30/20	\$	\$	\$	\$
10/1/20 – 9/30/21	\$	\$	\$	\$
10/1/21 – 9/30/22	\$	\$	\$	\$
10/1/22 – 9/30/23	\$	\$	\$	\$
10/1/23 – 9/30/24	\$	\$	\$	\$
10/1/24 – 9/30/25	\$	\$	\$	\$
10/1/25 – 9/30/26	\$	\$	\$	\$
10/1/26 - 3/30/27	\$	\$	\$	\$

\* Note: \$Base Annual Common Area Electric is subject to escalations pursuant to Schedule C-1

B. The Base Annual Rent and Base Annual Common Area Electric payable by Tenant for the Storage Space shall be as follows:

<u>Lease Year</u>	<u>Base Annual Rent</u>	<u>Base Annual Common Area Electric*</u>	<u>Total Base Annual Rent and Common Area Electric**</u>	<u>Total Base Monthly Rent and Common Area Electric *</u>
10/1/16 – 3/30/17	\$	\$	\$0.00	\$0.00
4/1/17 – 9/30/17	\$	\$	\$	\$
10/1/17 – 9/30/18	\$	\$	\$	\$
10/1/18 – 9/30/19	\$	\$	\$	\$
10/1/19 – 9/30/20	\$	\$	\$	\$
10/1/20 – 9/30/21	\$	\$	\$	\$
10/1/21 – 9/30/22	\$	\$	\$	\$
10/1/22 – 9/30/23	\$	\$	\$	\$
10/1/23 – 9/30/24	\$	\$	\$	\$
10/1/24 – 9/30/26	\$	\$	\$	\$
10/1/25 – 3/30/27	\$	\$	\$	\$

\* Note: \$Base Annual Common Area Electric is subject to escalations pursuant to Schedule C-1

C. Tenant agrees to pay the Base Annual Rent and Base Annual Common Area Electric for the Demised Premises (hereafter the "Rent") in equal monthly installments in advance, on the first day of each calendar month during the Demised Term at the office of Landlord, without notice, except that Tenant shall pay the first monthly installment on execution hereof. Tenant shall pay the Rent as above and as hereinafter provided, without any set off or deduction whatsoever.

D. If Tenant shall fail to pay when due any installment of the Rent or any payment of additional rent for a period of three (3) days after such installment or payment shall have become due, Tenant shall pay interest thereon at the lesser rate of (i) four percent (4%) per annum in excess of the prime interest rate of Citibank, N.A., as publicly announced from time to time or, if Citibank, N.A. shall cease to exist or announce such rate, any similar rate designated by Landlord which is publicly announced from time to time by any other bank in the City of New York having combined capital and surplus in excess of One Hundred Million and 00/100 Dollars (\$100,000,000) ("Prime Rate"), or (ii) the maximum rate of interest, if any, which Tenant may legally contract to pay, from the date when such installment or payment shall have become due to the date of the payment thereof, and such interest shall be deemed additional rent. In addition, Tenant shall pay to Landlord a late fee in the amount of five percent (5%) of such overdue amount to compensate Landlord for its administrative costs associated with such failure to timely pay. Such fee shall be deemed additional rent and shall be payable immediately upon demand. This provision is in addition to all other rights or remedies available to Landlord for nonpayment of Rent or additional rent under this Lease and at law and in equity.

E. Anything contained herein to the contrary notwithstanding, Tenant may occupy the Demised Premises without any obligations to pay Rent for the period commencing on the Term Commencement Date and expiring on March 31, 2017. Such occupancy shall be subject to all of the other terms, covenants and conditions set forth in this Lease.

## USE

4. Tenant shall use and occupy the Office Space only as executive and administrative offices for its business and for no other purpose. Tenant shall use and occupy the Storage Space only for storage and for no other purpose. Neither Tenant, nor its successors, subtenants or assigns shall utilize the Demised Premises to conduct a "boiler room" operation as such term is understood in the securities business or a financial services business that is not a member of the New York Stock Exchange.

## LANDLORD'S ALTERATIONS FOR TENANT

5. Annexed hereto is a construction plan (the "Plan") showing the partition and furniture locations for the Demised Premises. Based upon the Plan, Landlord shall promptly prepare and submit to Tenant, no later than 30 days after the date of this Lease, working drawings signed and sealed and in form and substance sufficient to obtain all applicable building and other permits to be issued and for all building trades to perform Landlord's Initial Construction (the "Working Drawings"). The Working Drawings will be based upon the Plan and specifications and finishes that currently exist in the Demised Premises, as well as specifications, finishes and locations to be provided by Tenant. Tenant agrees to provide any information or specification requested by Landlord within five (5) days after Landlord has made such request.

Tenant shall approve the Working Drawings within ten (10) business days after Landlord submits the Working Drawings to Tenant. Tenant may request minor changes to the Working Drawings; however, such changes (which are acceptable to Landlord, at Landlord's discretion) shall be made by Landlord at Tenant's sole cost and expense. In the event that Tenant fails to approve the Working Drawings within ten (10) business days after Landlord has submitted the Working Drawings to Tenant, then such failure shall constitute a "Tenant Delay" as hereinafter defined.

Landlord, at Landlord's expense, will perform the work and make the installations as set forth in the Working Drawings, the Estimating Breakdown Sheet, and Schedule A, all of which are annexed hereto. Landlord's work and installations made pursuant to this Article 5 is sometimes herein referred to as the "Landlord's Initial Construction". Tenant shall not alter, demolish or remove Landlord's Initial Construction, or any part thereof, unless Tenant shall, prior to the commencement thereof, obtain Landlord's written consent thereto, and pay to Landlord a sum, fixed by Landlord, for the restoration thereof.

Landlord's Initial Construction is expected to take place in phases which are shown on the Construction Schedule and Phasing Plan annexed hereto as Exhibit 4. Landlord will provide Tenant with a ten (10) day written notice, advising Tenant that Tenant must take action pursuant to the Construction Schedule. Failure of Tenant to take any such action shall constitute a Tenant Delay, as hereinafter defined.

In the event that substantial completion of Landlord's Initial Construction shall be delayed by reason of Tenant delays in submitting any plans or specifications described above, or in supplying information, or in approving plans or specifications or estimates, or in giving authorizations, or by reason of any Extra Work, as defined in paragraph V of Schedule A of this Lease, or by reason of any changes by Tenant in any designations previously made by Tenant, or by reason of any other similar acts or omissions of Tenant, and as a consequence the Term Commencement Date shall have been delayed (a "Tenant Delay"), then, the Term Commencement Date and the payment of Rent hereunder shall be accelerated by the number of days of delay caused by Tenant's aforesaid acts or omissions.

## UTILITIES

6. A. Landlord, during the hours of 8:00 A.M. to 6:00 P.M. on weekdays and on Saturdays from 9:00 A.M. to 1:00 P.M. ("Working Hours"), excluding legal holidays (presently, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, The day following Thanksgiving Day, and Christmas Day), shall furnish the Demised Premises with heat and air-conditioning (excluding supplemental air conditioning) in the respective seasons, furnish elevator service to the Demised Premises and provide the Demised Premises with electricity for lighting and usual office equipment. Tenant will pay for the forgoing utilities in accordance with Schedules C-1 and C-2.

If Tenant shall desire heat or air conditioning to the Office Space at any time other than the Working Hours ("Overtime HVAC"), then Landlord shall provide such services, at Tenant's expense, provided that Tenant has requested such services before 3 p.m. on the business day preceding the day on which the Overtime HVAC will be needed. Overtime HVAC may only be requested in blocks of at least three (3) continuous hours. The rate for Overtime HVAC will be \$60.00 per hour, for one (1) of the air handlers serving the Office Space or \$120.00 per hour for both of the air handlers serving the Office Space. The rate for Overtime HVAC will escalate pro rata to any escalations in Landlord's average cost per kilowatt hour, as described in Article 3 Schedule C-1.

B. Landlord shall use commercially reasonable efforts to make AT&T's telephone and data services available in the Building and for Tenant's use. Landlord's commercially reasonable efforts shall be limited to Landlord entering into Landlord's standard license agreement and waiving any fees generally associated with Landlord's granting of such a license.

## LANDLORD'S REPAIRS AND MAINTENANCE

7. Landlord, at its expense, will make all repairs to and provide the maintenance for the common areas and base systems of the Building as set forth in Schedule B, except such repairs (whether structural or otherwise) and maintenance as may be necessitated by the negligence, improper care or use of such premises and facilities by Tenant, its agents, employees, licensees or invitees, which will be made by Tenant at Tenant's expense as provided in Article 12 hereof. Tenant acknowledges that Landlord shall have no obligation to perform its repair and maintenance obligations hereunder, except during Landlord's regular working hours, except in the event of an emergency. If Tenant desires Landlord to perform any such repair and maintenance obligations at any hours other than Landlord's regular working hours, Landlord shall use its reasonable efforts to accommodate Tenant's request, provided, however, that Tenant shall pay to Landlord, as additional rent, any overtime charges incurred by Landlord as a result thereof.

## WATER SUPPLY

8. Landlord, at its expense, shall furnish hot and cold water for lavatory purposes and chilled water for drinking purposes, and tepid water for pantry purposes.

## PARKING FIELD

9. Tenant shall have the right to use \_\_\_ parking spaces of which \_\_\_ shall be marked as reserved for Tenant located in the front of the building, and shall be marked as reserved for Tenant in the rear of the building, for the parking of automobiles of Tenant, its employees and invitees, in the parking area reserved for tenants of the Building (hereinafter sometimes referred to as "Building Parking Area"). Tenant's parking shall be subject to the Rules and Regulations now or hereafter adopted by Landlord. Tenant shall not use nor permit any of its officers, agents or employees to use any parking area other than the Building Parking Area, nor use in excess of Tenant's allotted number of spaces therein. Tenant further acknowledges that a violation of the provisions of this Article 9 shall constitute a material breach of this Lease.

## DIRECTORY

10. Landlord will furnish in the lobby of the Building a directory which will contain listing(s) requested by Tenant not to exceed \_\_\_ listings. There will be a charge for the replacement of listing(s).

## TAXES

11. A. Anything to the contrary contained in this Article 11 notwithstanding, Tenant shall not be required to make any payments of additional rent arising out of escalations in the Taxes (as hereafter defined) during the initial term of the Lease. However if during any extension of the term of the Lease, the Taxes which would be assessable to Landlord in any escalation year (without taking into consideration any reductions or abatements granted to Landlord by the taxing authorities by reason of vacancies or other hardships or provisions of law) shall be increased above the Tax Base, then Tenant shall pay to Landlord as additional rent for such escalation year a sum equal to \_\_\_% of such increases in Taxes (based on the ratio of the Demised Premises area of \_\_\_ square feet to the Building Area of 304,952 square feet). The "Tax Base" shall be the Taxes actually payable by Landlord (subject to adjustment as provided in the next succeeding sentence) during the current tax year (School: 7/1/16-6/30/17 Town: 2016. Should the Taxes payable during the current tax year (School: 7/1/16-6/30/17 Town: 2016) be reduced by final determination of legal proceedings, settlement or otherwise, then the Tax Base shall be correspondingly revised, the additional rent theretofore paid or payable hereunder for all escalation years shall be recomputed on the basis of such reduction, and Tenant shall pay to Landlord, as additional rent within ten (10) days after being billed therefor, any deficiency between the amount of such additional rent as theretofore computed and the amount thereof due as the result of such recomputations. Any refund due to Tenant shall be debited by Tenant's proportionate share of all legal, experts, administrative and other costs, fees or expenses incurred in connection with obtaining such reduction. Should the Taxes payable by Landlord in any future tax year be reduced by final determination of legal proceedings, settlement, or otherwise prior to payment by Landlord of such Taxes, Tenant shall pay to Landlord, as additional rent, Tenant's proportionate share of all legal, experts, administrative and other costs, fees or expenses incurred in connection with obtaining such reduction.

## DEFINITIONS

B. As used in and for the purposes of this Article 11, the following definition shall apply:

The term "Taxes" shall be deemed to include all real estate taxes and assessments, special or otherwise and sewer rents, upon or with respect to the Building and the land allocated to it including all parking areas (hereinafter called the "Real Property"). If, due to any change in the method of taxation, any franchise, income, profit, sales, rental use and occupancy, or other tax shall be substituted for, or levied against Landlord or

any owner of the Building or the Real Property in lieu of, any real estate taxes, assessments or sewer rents upon or with respect to the Real Property, such tax shall be included in the term Taxes for the purposes of this Article.

## **PROCEDURE FOR INVOICING AND PAYMENT OF ADDITIONAL RENT**

C. i. Landlord shall render to Tenant a statement containing a computation of additional rent due under this Article ("Landlord's Statement") at any time and from time to time as such becomes due. Within ten (10) days after the rendition of Landlord's Statement which shows additional rent to be payable, Tenant shall pay to Landlord the amount of such additional rent. On the first day of each month following rendition of each Landlord's Statement, Tenant shall pay to Landlord, on account of the prospective additional rent, a sum equal to one-twelfth (1/12th) of the annualized additional rent last paid by Tenant.

ii. Following each Landlord's Statement, Tenant shall be debited with any additional rent shown on such Landlord's Statement to be payable, and credited with the aggregate amount paid by Tenant in accordance with the provisions of subsection 11.C.i above on account of the potential additional rent.

iii. The obligations of Landlord and Tenant under the provisions of this Article 11 with respect to any additional rent for any Lease Year shall survive the expiration or any sooner termination of the Demised Term.

iv. In the event that Tenant challenges the amount of additional rent payable pursuant to this Article 11, then, as a condition precedent to the submission of a dispute as to such amount to judicial review, and pending the determination of any dispute, Tenant shall promptly pay the additional rent as demanded by Landlord. After such determination, any adjustment in the disputed amount shall be made within thirty (30) days.

## **TENANT'S REPAIRS**

12. A. Except for replacements and repairs to the base Building systems, Tenant shall be responsible for all replacements and repairs within the Demised Premises. In furtherance thereof, Tenant shall, throughout the Demised Term, take good care of the Demised Premises and the fixtures and appurtenances therein and, at Tenant's sole cost and expense, make all non-structural repairs thereto, and, as required, non-structural replacements thereof, as and when needed to preserve the same in good working order and condition, reasonable wear and tear, obsolescence and damage from the elements, fire or other casualty, excepted. Notwithstanding the foregoing, all damage or injury to any part of the Building, or to the fixtures, equipment and appurtenances thereof, whether requiring structural or non-structural repairs, caused by or resulting from carelessness, omission, neglect or improper conduct of Tenant, Tenant's servants, employees, invitees or licensees, shall be repaired promptly by Tenant at its sole cost and expense, to the reasonable satisfaction of Landlord. Tenant shall also repair all damage to the Building caused by the moving of Tenant's fixtures, furniture or equipment. Any repairs or replacements to be made by Tenant shall be made with reasonable diligence, in a good and workmanlike manner and so as not to unreasonably interfere with other tenants' use and occupancy of the Building.

B. Except as provided in Article 25 hereof, there shall be no allowance to Tenant for a diminution of rental value and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to business arising from Landlord, Tenant or others making any repairs, alterations, additions or improvements in or to any portion of the Building or the Demised Premises, or in or to fixtures, appurtenances, or equipment thereof, and no liability upon Landlord for failure of Landlord or others to make any repairs, alterations, additions or improvements in or to any portion of the Building or of the Demised Premises, or in or to the fixtures, appurtenances or equipment thereof. Any repairs which Tenant may be required to carry out pursuant to the terms hereof may, at Landlord's option, be made by Landlord at the expense of Tenant, on the basis of cost plus fifteen (15%) percent of such cost and expense for overhead and an additional ten (10%) percent of the resulting total as a supervisory fee, which shall be collectible as additional rent after the rendition of a bill or statement therefore.

## **FLOOR LOADING**

13. The emplacement of any equipment which will impose an evenly distributed floor load in excess of 50 pounds per square foot shall be done only after written permission is received from Landlord. Such permission will be granted only after adequate proof is furnished by a professional engineer that such floor loading will not endanger the structure.

## **FIXTURES AND INSTALLATIONS**

14. All appurtenances, fixtures, improvements, additions and other property attached to or built into the Demised Premises, whether by Landlord or Tenant or others, and whether at Landlord's expense, or Tenant's expense, or the joint expense of Landlord and Tenant, shall become and remain the property of Landlord, and shall

remain upon and be surrendered with the Demised Premises unless Landlord, by notice to Tenant no later than twenty days prior to the date fixed as the termination of this Lease, elects to have them removed by Tenant, in which event, the same shall be removed from the premises by Tenant forthwith, at Tenant's expense. Nothing in this Article shall be construed to prevent Tenant's removal of trade fixtures, but upon removal of any such trade fixtures from the premises or upon removal of other installations as may be required by Landlord, Tenant shall immediately and at its expense, repair and restore the premises to the condition existing prior to installation and repair any damage to the Demised Premises or the Building due to such removal. All property permitted or required to be removed by Tenant at the end of the term remaining in the premises after Tenant's removal shall be deemed abandoned and may, at the election of Landlord, either be retained as Landlord's property or may be removed from the premises at Tenant's expense. All the outside walls of the Demised Premises including corridor walls and the outside entrance doors to the Demised Premises, any balconies, terraces or roofs adjacent to the Demised Premises, and any space in the Demised Premises used for shafts, stacks, pipes, conduits, ducts or other building facilities, and the use thereof, as well as access thereto in and through the Demised Premises for the purpose of operation, maintenance, decoration and repair, are expressly reserved to Landlord, and Landlord does not convey any rights to Tenant therein. Notwithstanding the foregoing, Tenant shall enjoy full right of access to the Demised Premises through the public entrances, public corridors and public areas within the Building.

## **ALTERATIONS**

15. A. Tenant shall make no alterations, decorations, installations, additions or improvements in or to the Demised Premises without Landlord's prior written consent (which consent shall not be unreasonably withheld), and then only by contractors or mechanics approved by Landlord and at such times and in such manner as Landlord may from time to time designate. Tenant shall notify Landlord as to when such work will commence, such notice to be given at least five (5) business days prior to the commencement thereof. Landlord shall have the right to make inspections of any such work being carried out by Tenant or on Tenant's behalf at any reasonable time during the progress of such work. Anything herein contained to the contrary notwithstanding, this Article 15A. shall not apply to non-structural alterations and/or decorations costing less than \$10,000 in the aggregate.

B. All installations or work done by Tenant shall be done in a good and workmanlike manner and shall at all times comply with:

- i. Laws, rules, orders and regulations of governmental authorities having jurisdiction thereof.
- ii. Rules and regulations of Landlord, as promulgated from time to time.

iii. Plans and specifications prepared by and at the expense of Tenant theretofore submitted to Landlord for its prior written approval; no installations or work shall be undertaken, started or begun by Tenant, its agents, servants or employees, until Landlord has approved such plans and specifications and shall be subject to Landlord's supervisory fee charge of ten percent (10%) percent of the total value of work to be performed; and no amendments or additions to such plans and specifications shall be made without the prior written consent of Landlord, and shall be subject to Landlord's supervisory fee charge of ten (10%) percent of the total value of work to be performed.

Tenant agrees that it will not, either directly or indirectly, use, suffer or permit any contractors, sub-contractors and/or labor and/or materials if the use of such contractors and/or labor and/or materials would or will create any difficulty with other contractors and/or labor engaged by Tenant or Landlord or others in the construction, maintenance and/or operation of the Building or any part thereof. Tenant shall, before making any alterations, additions, installations or improvements, at its expense, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof and shall deliver promptly duplicates of all such permits, approvals and certificates to Landlord and Tenant agrees to carry and will cause Tenant's contractors and sub-contractors material persons to carry such workmen's compensation, general liability, personal and property damage insurance as Landlord may require. Tenant agrees to obtain and deliver to Landlord, written and unconditional waivers of mechanic's liens upon the real property in which the Demised Premises are located, for all property in which the Demised Premises are located, for all work, labor and services performed and materials furnished in connection with such work after payment therefore, signed by all contractors, sub-contractors, materialmen and laborers involved in such work. Notwithstanding the foregoing, if any mechanic's lien is filed against the Demised Premises, or the Building, for work claimed to have been done for, or materials furnished to, Tenant, whether or not done pursuant to this Article the same shall be discharged by Tenant within ten days thereafter, at Tenant's expense, by filing the bond required by law. Failure to so discharge any mechanic's lien shall be a material default under this Lease.

C. Anything contained herein to the contrary notwithstanding, Tenant shall make no alterations, decorations, installations, additions or improvements in or to the Demised Premises which shall in any way affect

utility services or plumbing and electrical lines. Moreover, Landlord shall not be deemed to have acted unreasonably for withholding consent to any alterations, decorations, installations, additions or improvements which: (i) involve or might affect any structural or exterior element of the Building outside the Demised Premises or the Building, or (ii) will require unusual expense to readapt the Demised Premises to normal office use on the expiration of the Demised Term or increase the cost of construction or of insurance or taxes on the Building or of the services called for hereunder unless Tenant first gives assurances acceptable to Landlord for payment of such increased cost and that such readaption will be made prior to the Expiration Date without expense to Landlord.

## **REQUIREMENTS OF LAW**

16. A. Tenant, at Tenant's cost, shall comply with all laws and governmental rules and regulations arising out of or relating to Tenant's use and occupancy of the Demised Premises.

B. Tenant shall not permit any "Hazardous Materials" (as defined below) in the Demised Premises. The term "Hazardous Materials" shall mean any biologically or chemically active or other toxic or hazardous wastes, pollutants or substances, including, without limitation, asbestos, PCBs, petroleum products and by-products, and substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to laws or governmental rules and regulations.

C. Tenant shall indemnify, defend and hold Landlord harmless from or against any and all claims, actions or proceedings arising from Tenant's failure to comply with Article 16.A and/or 16.B and all costs, expenses and liabilities incurred in connection with any such claim or action or proceeding brought thereon. Tenant, upon notice from Landlord, agrees that Tenant, at Tenant's expense, will resist or defend such action or proceeding and will employ counsel therefor reasonably satisfactory to Landlord. Tenant's liability under this Lease extends to the acts and omissions of any subtenant, and any agent, contractor, employee, invitee or licensee of Tenant or any subtenant.

## **END OF TERM**

17. A. Upon the expiration or other termination of the Demised Term, Tenant shall quit and surrender to Landlord the Demised Premises, broom clean, in good order and condition, ordinary wear excepted, and Tenant shall remove all of its property (excluding such property stated to remain the property of Landlord pursuant to Article 14), and shall repair all damage to the Demised Premises or the Building occasioned by such removal. Any property not removed from the premises shall be deemed abandoned by Tenant and may be disposed of in any manner deemed appropriate by Landlord at Tenant's expense. Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force, in connection with any holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Article. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of the Demised Term. If the last day of the Demised Term or any renewal hereof falls on Sunday or a legal holiday, this Lease shall expire on the business day immediately preceding.

B. Tenant acknowledges that possession of the Demised Premises must be surrendered to Landlord at the expiration or sooner termination of the Demised Term. Tenant hereby agrees to indemnify and save Landlord harmless against any and all costs, damages, claims, loss or liability resulting from delay by Tenant in so surrendering the Demised Premises, including, without limitation, any claims made by any succeeding tenant, founded on such delay. The parties recognize and agree that the damage to Landlord resulting from any failure by Tenant timely to surrender possession of the Demised Premises as aforesaid will be extremely substantial, will exceed the amount of monthly Rent theretofore payable hereunder, and will be impossible of accurate measurement. Tenant therefore agrees that if possession of the Demised Premises is not surrendered to Landlord on or before the date of the expiration or other termination of the Demised Term, time being of the essence with respect thereto, then, in addition to any other remedies and/or damages otherwise available to Landlord hereunder or at law, Tenant agrees to pay Landlord, for each month and for each portion of any month during which Tenant holds over in the Demised Premises after expiration or other termination of the Demised Term, a sum equal to two (2) times the Rent and additional rent (inclusive of escalations) that was payable per month under this Lease during the last month of the term thereof. Nothing contained herein shall be construed to constitute Landlord's consent to Tenant remaining in possession of the Demised Premises after the expiration or other termination of the Demised Term. Landlord shall be entitled to pursue any action necessary to recover immediate possession of the Demised Premises notwithstanding Tenant's payment of the aforementioned sum. The aforesaid provisions of this paragraph shall survive the expiration or sooner termination of the Demised Term.



## **QUIET ENJOYMENT**

18. Landlord covenants and agrees with Tenant that upon Tenant paying the Rent and additional rent and observing and performing all the terms, covenants and conditions on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Demised Premises during the Demised Term without hindrance or molestation by anyone claiming by or through Landlord, subject, nevertheless, to the terms, covenants and conditions of this Lease including, but not limited to, Article 23. Tenant acknowledges that Landlord is granting similar quiet enjoyment to other tenants in the Building. Tenant covenants and agrees not to do, suffer or permit anything that would breach any such similar covenant.

## **SIGNS**

19. Except where currently existing, no signs may be put on or in the public corridors nor any window nor on the exterior of the Building by Tenant. Any new signs or lettering on the entry door to the Demised Premises must be submitted to Landlord for approval before installation, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, Landlord shall have the right, at Landlord's expense, to move, replace, or alter the form of any of Tenant's signage.

## **RULES AND REGULATIONS**

20. Tenant and Tenant's agents, employees, visitors, and licensees shall faithfully comply with the Rules and Regulations set forth on Schedule D annexed hereto and made part hereof, and with such further reasonable Rules and Regulations as Landlord at any time may make and communicate in writing to Tenant which, in Landlord's judgment, shall be necessary for the reputation, safety, care or appearance of the Building and land allocated to it or the preservation of good order therein, or the operation or maintenance of the Building, its equipment and such land, or the more useful occupancy or the comfort of the tenants or others in the Building. Landlord shall not be liable to Tenant for the violation of any of said Rules and Regulations, or the breach of any covenant or condition of any lease by any other tenant (including their agents, guests, employees and invitees) in the Building. Rules and Regulations shall be uniformly applied where possible.

## **ASSIGNMENT AND SUBLETTING**

21. A. Tenant, for itself, its successors, undertenants and assigns (all of the foregoing hereinafter referred to as the "Tenant"), expressly covenants that it shall not assign, mortgage or encumber this Lease, nor underlet the Demised Premises or any part thereof, or license or permit the Demised Premises or any part thereof to be used by others, without the prior written consent of Landlord in each instance and upon due compliance with the provisions of this Article 21.

B. Tenant shall have no right to assign this Lease or sublet all or any portion of the Demised Premises until Tenant has been in possession of the Demised Premises for at least two (2) years.

C. Prior to requesting the approval of Landlord to an assignment or subletting as hereinafter provided, Tenant shall, by notice as provided in Article 35, advise Landlord of all the terms, covenants and conditions of Tenant's proposed sublease or assignment, including providing Landlord with a true, accurate and complete copy of the agreement with the proposed assignee/subtenant.

D. Upon Tenant's due compliance with the aforesaid provisions of this Article 21, Landlord agrees not to unreasonably withhold its consent to an assignment or subletting, provided that Tenant is not then in default under this Lease and that the proposed assignee or undertenant is financially responsible, of good reputation and engaged in a business compatible with the business generally carried on in the Building and that the proposed assignment or sublease would not be inconsistent with any agreement previously made with any other tenant or mortgagee, and further provided that such assignee or undertenant shall execute and deliver to Landlord an assumption agreement wherein it agrees to perform all the obligations of Tenant under this Lease in form appropriate for recording, and provided, in the case of a sublease that the annual rental rate under such sublease is not less than the prevailing rate per square foot at 100 Jericho Quadrangle, Jericho, New York, 11753.

E. No assignment of this Lease or underletting of the Demised Premises shall release or discharge Tenant hereunder from any of its obligations to be performed under this Lease. The consent by Landlord to an assignment or underletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or underletting.

F. If Tenant is a corporation, Tenant may assign this Lease to any successor by merger or consolidation, provided (i) that a copy of said assignment, in recordable form, is delivered to Landlord containing a full assumption by the assignee of all Tenant's obligations hereunder and (ii) that such successor shall have had, for each of its prior two (2) fiscal years, a net worth equal to or greater than Tenant's net worth. In the event that such

successor shall be unable to satisfy the provisions of sub-clause (ii) above, as a condition to such assignment, such successor shall post additional security equal to four (4) months of the then current total Rent and additional rent.

G. Except as expressly otherwise provided in Section 21.F hereof, the following shall be deemed an "assignment" of this Lease for the purposes of Article 21:

- i. an assignment of a part interest in this Lease;
- ii. one or more sales or transfers, by operation of law or otherwise, or creation of new stock or issuance of additional shares of stock, resulting in a transfer of at least fifty-one (51%) percent of the outstanding stock of Tenant, if Tenant is a corporation, or of any corporate subtenant, except that the transfer of the outstanding capital stock of any corporate tenant, or subtenant, shall be deemed not to include the sale of such stock by persons or parties, other than those deemed "affiliates" of Tenant within the meaning of Rule 144 promulgated under the Securities Act of 1933, as amended, through the "over-the-counter market" or through any recognized stock exchange;
- iii. one or more sales or transfers, by operation of law or otherwise, resulting in a transfer of at least fifty-one (51%) percent of the total interests in Tenant, if Tenant is a partnership, limited liability company or partnership, or in any partnership subtenant; or
- iv. Tenant's entering into a takeover agreement affecting this Lease.

For the purposes of this Article 21, a modification, amendment or extension of a sublease shall be deemed a sublease.

H. If Tenant assigns, sells, conveys, transfers, mortgages, pledges or sublets this Lease, the Demised Premises, or any portion thereof in violation of this Article 21, or if the Demised Premises are occupied by anybody other than Tenant, Landlord may collect rent from any assignee, sublessee or anyone who claims a right to this Agreement or letting or who occupies the Demised Premises, and Landlord shall apply the net amount collected to the annual rental herein reserved; and no such collection shall be deemed a waiver by Landlord of the covenants contained in this Article nor an acceptance by Landlord of any such assignee, sublessee, claimant or occupant as Tenant, nor a release of Tenant from the further performance by Tenant of the covenants contained herein.

I. Tenant shall pay to Landlord, as additional rent, the sum of \$1,000 to cover cost of Landlord's attorneys' fees and administration costs in connection with any permitted subletting or assignment pursuant to this Article 21.

## **LANDLORD'S ACCESS TO PREMISES**

22. A. Landlord or Landlord's agents shall have the right to enter and/or pass through the Demised Premises at all times to examine the same, to show them to mortgagees, ground lessors, prospective purchasers or lessees or mortgagees of the Building, adjusters or any other persons, and to make such repairs, improvements or additions as Landlord may deem necessary or desirable and Landlord shall be allowed to take all material into and upon and/or through said Demised Premises that may be required therefor. During the one (1) year prior to the expiration of the Demised Term, or any renewal term, Landlord may exhibit the Demised Premises to prospective tenants or purchasers at all reasonable hours and without unreasonably interfering with Tenant's business. If Tenant shall not be personally present to open and permit an entry into said premises, at any time, when for any reason an entry therein shall be necessary or permissible, Landlord or Landlord's agents may enter the same by a master key, without rendering Landlord or such agent liable therefor (if during such entry Landlord or Landlord's agents shall accord reasonable care to Tenant's property). If during the last month of the Demised Term, Tenant shall have removed all or substantially all of Tenant's property therefrom, Landlord may immediately enter, alter, renovate or redecorate the Demised Premises without limitation or abatement of rent, or incurring liability to Tenant for any compensation and such act shall have no effect on this Lease or Tenant's obligations hereunder.

B. Landlord shall also have the right at any time to use, maintain and replace pipes and conduits in and through the Demised Premises and to erect new pipes and conduits therein, to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets or other public parts of the Building, provided, however, that Landlord shall make no change in the arrangement and/or location of entrances or passageways or other public parts of the Building which will adversely affect in any material manner Tenant's use and enjoyment of the Demised Premises unless required by law or governmental authority. Landlord shall also have the right, at any time, to name the Building, to display appropriate signs and/or lettering on any or all entrances to the Building, and to change the name, number or designation by which the Building is commonly known.

C. Neither this Lease nor any use by Tenant shall give Tenant any right or easement to the use of any door or passage or concourse connecting with any other building or to any public conveniences, and the use of such doors and passages and concourse and of such conveniences may be regulated and/or discontinued at any time and from time to time by Landlord without notice to Tenant.

D. The exercise by Landlord or its agents of any right reserved to Landlord in this Article shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord, or its agents, or upon any lessor under any ground or underlying lease, by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise.

## **SUBORDINATION**

23. A. This Lease is subject and subordinate in all respects to all ground leases and/or underlying leases and to all mortgages which may now or hereafter be placed on or affect such leases and/or the real property of which the Demised Premises form a part, or any part or parts of such real property, and/or Landlord's interest or estate therein, and to each advance made and/or hereafter to be made under any such mortgages, and to all renewals, modifications, consolidations, replacements and extensions thereof and all substitutions therefor. This subsection shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute and deliver promptly any certificate that Landlord and/or any mortgagee and/or the lessor under any ground or underlying lease and/or their respective assigns, and/or successors in interest may request.

B. Without limitation of any of the provisions of this Lease, in the event that any mortgagee or its assigns shall succeed to the interest of Landlord or of any successor-Landlord and/or shall have become lessee under a new ground or underlying lease, then, at the option of such mortgagee, this Lease shall nevertheless continue in full force and effect and Tenant shall and does hereby agree to attorn to such mortgagee or its assigns and to recognize such mortgagee or its respective assigns as its Landlord.

C. Tenant shall, at any time and from time to time upon not less than five (5) days' prior notice by Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), confirming any date applicable to the lease, including the dates to which the Rent, additional rent and other charges have been paid in advance, if any, confirming the nature of any options conferred under the Lease, and stating whether or not to the best knowledge of the signer of such certificate Landlord is in default in performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser or lessee of said real property or any interest or estate therein, any mortgagee or prospective mortgagee thereof or any prospective assignee of any mortgage thereof. If, in connection with obtaining financing or refinancing for the Building and the land allocated to it, a banking, insurance or other recognized institutional lender shall request reasonable modifications in this Lease as a condition to such financing, Tenant will not unreasonably withhold, condition, delay or defer its consent thereto, provided that such modifications do not increase the obligations of Tenant hereunder or materially adversely affect the leasehold interest hereby created. Failure by Tenant to comply with this Article 23.C shall be a material default under this Lease.

D. Landlord shall use commercially-reasonable efforts to obtain an agreement (a "Non-Disturbance Agreement") from the holder of any mortgage now or hereafter encumbering the Building, in the usual form of such holder, in favor of Tenant, providing in substance that so long as Tenant is not in default under the terms of this Lease beyond any applicable notice and cure periods, the right of possession of Tenant to the Demised Premises shall not be affected or disturbed by such holder in the exercise of any of its rights under the mortgage or any note secured thereby, and any sale of the Building pursuant to the exercise of any rights and remedies under the mortgage or otherwise shall be made subject to Tenant's right of possession under this Lease. Such efforts hereunder shall be limited to making a written request to each such holder for such Non-Disturbance Agreement. Landlord shall incur no liability, nor shall this Lease or the obligations of Tenant hereunder be affected in any manner, in the event Landlord shall be unable to obtain a Non-Disturbance Agreement from the holder of any mortgage in favor of Tenant. Furthermore, Landlord shall not be required to incur any expense or to pay any consideration or to commence any action or proceeding in order to obtain any Non-Disturbance Agreement in favor of Tenant.

## **PROPERTY LOSS, DAMAGE, REIMBURSEMENT**

24. A. Landlord or its agents shall not be liable for any damage to property of Tenant or of others entrusted to employees of the Building, nor for the loss of or damage to any property of Tenant by theft or otherwise. Landlord or its agents shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, electrical disturbance, water, rain or snow or leaks from any part of the Building or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by dampness or by any other cause of whatsoever nature, unless caused by or due to the negligence of Landlord, its agents, servants or employees; nor shall Landlord or its agents be liable for any such damage caused by other tenants or persons in the Building or caused by operations in construction of any private, public or quasi public work; nor shall Landlord be liable for any latent defect in the Demised Premises or in the Building. If at any time any windows of the Demised Premises are temporarily closed or darkened incident to or for the purpose of repairs, replacements, maintenance and/or cleaning in, on, to or about the Building or any part or parts thereof, Landlord shall not be liable for any damage Tenant may sustain thereby and Tenant shall not be entitled to any compensation therefor nor abatement of rent nor shall the same release Tenant from its obligations hereunder nor constitute an eviction. Tenant shall reimburse and compensate Landlord as additional rent for all expenditures made by, or damages or fines sustained or incurred by Landlord due to non-performance or non-compliance with or breach or failure to observe any term, covenant or condition of this Lease upon Tenant's part to be kept, observed, performed or complied with. Tenant shall give immediate notice to Landlord in case of fire or accidents in the Demised Premises or in the Building or of defects therein or in any fixtures or equipment.

## **TENANT'S INDEMNITY**

B. Tenant shall indemnify and save harmless Landlord against and from any and all claims by and on behalf of any person or persons, firm or firms, corporation or corporations arising from the conduct or management of or from any work or thing whatsoever done (other than by Landlord or its contractors or the agents or employees of either) in and on the Demised Premises during the Demised Term and during the period of time, if any, prior to the Term Commencement Date that Tenant may have been given access to the Demised Premises for the purpose of making installations, and will further indemnify and save harmless Landlord against and from any and all claims arising from any condition of the Demised Premises due to or arising from any act or omission or negligence of Tenant or any of its agents, contractors, servants, employees, licensees or invitees, and against and from all costs, expenses and liabilities incurred in connection with any such claim or claims or action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, agrees that Tenant, at Tenant's expense, will resist or defend such action or proceeding and will employ counsel therefor reasonably satisfactory to Landlord. Tenant's liability under this Lease extends to the acts and omissions of any subtenant, and any agent, contractor, employee, invitee or licensee of any subtenant.

## **DESTRUCTION-FIRE OR OTHER CASUALTY**

25. If the Demised Premises shall be damaged by fire or other casualty and if Tenant shall give prompt notice to Landlord of such damage, Landlord, at Landlord's expense, shall repair such damage. However, Landlord shall have no obligation to repair any damage to, or to replace, Tenant's personal property or any other property or effects of Tenant, including (without limitation) furnishings and equipment of Tenant or its employees, agents and clients. If the entire Demised Premises shall be rendered untenable by reason of any such damage, the Rent shall abate for the period from the date of such damage to the date when such damage shall have been repaired, and if only a part of the Demised Premises shall be so rendered untenable, the Rent shall abate for such period in the proportion which the area of the part of the Demised Premises so rendered untenable bears to the total area of the Demised Premises. However, if prior to the date when all of such damage shall have been repaired any part of the Demised Premises so damaged shall be rendered tenable and shall be used or occupied by Tenant or any person or persons claiming through or under Tenant, then the amount by which the Rent shall abate shall be equitably apportioned for the period from the date of any such use or occupancy to the date when all such damage shall have been repaired. Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force, and Tenant agrees that the provisions of this Article shall govern and control in lieu thereof. Notwithstanding the foregoing provisions of this Article, if, prior to or during the Demised Term, (i) the Demised Premises shall be totally damaged or rendered wholly untenable by fire or other casualty, and if Landlord shall decide not to restore the Demised Premises, or (ii) the Building shall be so damaged by fire or other casualty that, in Landlord's opinion, substantial alteration, demolition, or reconstruction of the Building shall be required (whether or not the Demised Premises shall be damaged or rendered untenable), then, in any of such events, Landlord at Landlord's option, may give to Tenant, within ninety (90) days after such fire or other casualty, a thirty (30) days' notice of termination of this Lease and, in the event such notice is given, this Lease and the Demised Term shall come to an end and expire (whether or not said term shall have commenced) upon the expiration of said thirty (30) days with the same effect as if the date of

expiration of said thirty (30) days were the Expiration Date, the Rent shall be apportioned as of such date and any prepaid portion of Rent for any period after such date shall be refunded by Landlord to Tenant.

## **SUBROGATION**

26. Each of the parties hereto and their successors or assigns hereby waives any and all rights of action for negligence against the other party hereto which may hereafter arise for damage to the premises or to property therein resulting from any fire or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the parties hereto, or either of them. The foregoing release and waiver shall be in force only if both releasors' insurance policies contain a clause providing that such a release or waiver shall not invalidate the insurance and also provided that such a policy can be obtained without additional premiums. Both parties agree to use their best efforts to obtain and maintain a waiver of subrogation from their respective carriers if they are insured.

## **EMINENT DOMAIN**

27. A. In the event that the whole of the Demised Premises shall be lawfully condemned or taken in any manner for any public or quasi-public use, this Lease and the term and estate hereby granted shall forthwith cease and terminate as of the date of vesting of title. In the event that only one part of the Demised Premises shall be so condemned or taken, then, effective as of the date of vesting of title, the Rent hereunder shall be abated in an amount thereof apportioned according to the area of the Demised Premises so condemned or taken. In the event that only a part of the Building shall be so condemned or taken, then (i) Landlord (whether or not the Demised Premises be affected) may, at its option, terminate this Lease and the term and estate hereby granted as of the date of such vesting of title by notifying Tenant in writing of such termination within 60 days following the date on which Landlord shall have received notice of vesting of title, and (ii) if such condemnation or taking shall be of a substantial part of the Demised Premises or of a substantial part of the means of access thereto, Tenant shall have the right, by delivery of notice in writing to Landlord within 60 days following the date on which Tenant shall have received notice of vesting of title, to terminate this Lease and the term and estate hereby granted as of the date of vesting of title or (iii) if neither Landlord nor Tenant elects to terminate this Lease, as aforesaid, this Lease shall be and remain unaffected by such condemnation or taking, except that the Rent shall be abated to the extent, if any, hereinabove provided in this Article 27. In the event that only a part of the Demised Premises shall be so condemned or taken and this Lease and the term and estate hereby granted are not terminated as hereinbefore provided, Landlord will, at its expense, restore the remaining portion of the Demised Premises as nearly as practicable to the same condition as it was in prior to such condemnation or taking.

B. In the event of a termination in any of the cases hereinabove provided, this Lease and the term and estate granted shall expire as of the date of such termination with the same effect as if that were the date hereinbefore set for the expiration of the Demised Term, and the Rent hereunder shall be apportioned as of such date.

C. In the event of any condemnation or taking hereinabove mentioned of all or a part of the Building, Landlord shall be entitled to receive the entire award in the condemnation proceeding, including any award made for the value of the estate vested by this Lease in Tenant, and Tenant hereby expressly assigns to Landlord any and all right, title and interest of Tenant now or hereafter arising in or to any such award or any part thereof, and Tenant shall be entitled to receive no part of such award, except that Tenant may file a claim for any taking of removable fixtures owned by Tenant and for moving expenses incurred by Tenant.

It is expressly understood and agreed that the provisions of this Article 27 shall not be applicable to any condemnation or taking for governmental occupancy for a limited period.

## **CERTIFICATE OF OCCUPANCY**

28. Tenant will not at any time use or occupy the Demised Premises in violation of the certificate of occupancy (temporary or permanent) issued for the Building or portion thereof of which the Demised Premises form a part.

## **DEFAULT**

29. A. Upon the occurrence at any time prior to or during the Demised Term, of any one or more of the following events (referred to as "Events of Default"):

i. if Tenant shall default in the payment when due of any installment of Rent or in the payment when due of any additional rent, and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default; or

ii. if Tenant shall default in the observance or performance of any term, covenant or condition of this Lease on Tenant's part to be observed or performed (other than the covenants for the payment of Rent and additional rent) and Tenant shall fail to remedy such default within ten (10) days after notice by Landlord to Tenant of such default, or if such default is of such a nature that it cannot be completely remedied within said period of ten (10) days and Tenant shall not commence within said period of ten (10) days, or shall not thereafter diligently prosecute to completion, all steps necessary to remedy such default; or

iii. if Tenant or Tenant's guarantor hereunder (if any) shall file a voluntary petition in bankruptcy or insolvency, or shall be adjudicated a bankrupt or become insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, or shall make an assignment for the benefit of creditors or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Tenant or of all or any part of Tenant's property; or

iv. if, within thirty (30) days after the commencement of any proceeding against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within thirty (30) days after the appointment of any trustee, receiver or liquidator of Tenant, or of all or any part of Tenant's property, without the consent or acquiescence of Tenant, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against Tenant or any of Tenant's property pursuant to which the Demised Premises shall be taken or occupied or attempted to be taken or occupied; or

v. if Tenant shall default in the observance or performance of any term, covenant or condition on Tenant's part to be observed or performed under any other lease with Landlord of space in the Building and such default shall continue beyond any grace period set forth in such other lease for the remedying of such default; or

vi. if the Demised Premises shall become vacant, deserted or abandoned; or

vii. if Tenant's interest in this Lease shall devolve upon or pass to any person, whether by operation of law or otherwise, except as expressly permitted under Article 21;

then, upon the occurrence, at any time prior to or during the Demised Term, of any one or more of such Events of Default, Landlord, at any time thereafter, at Landlord's option, may give to Tenant a five (5) days' notice of termination of this Lease and, in the event such notice is given, this Lease and the Demised Term shall come to an end and expire (whether or not said term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 30.

B. If, at any time, (i) Tenant shall be comprised of two (2) or more persons, or (ii) Tenant's obligations under this Lease shall have been guaranteed by any person other than Tenant, or (iii) Tenant's interest in this Lease shall have been assigned, the word "Tenant", as used in subsection (iii) and (iv) of Article 29.A, shall be deemed to mean any one or more of the persons primarily or secondarily liable for Tenant's obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in said subsections (iii) and (iv) shall be deemed paid as compensation for the use and occupation of the Demised Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of rent or a waiver on the part of Landlord of any rights under Article 29.A.

## REMEDIES

30. A. If Tenant shall default in the payment when due of any installment of Rent or in the payment when due of any additional rent and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default, or if this Lease and the Demised Term shall expire and come to an end as provided in Article 29:

i. Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Lease and the Demised Term shall expire and come to an end, re-enter the Demised Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Demised Premises and dispossess Tenant and any other persons from the Demised Premises and remove any and all of their property and effects from the Demised Premises; and

ii. Landlord, at Landlord's option, may relet the whole or any part or parts of the Demised Premises from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Demised Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Demised Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Lease or otherwise to affect any such liability. Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Demised Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting any such liability.

B. Tenant, on its own behalf and on behalf of all persons claiming through or under Tenant, including all creditors, does hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Demised Premises, or to re-enter or repossess the Demised Premises, or to restore the operation of this Lease, after (i) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (ii) any re-entry by Landlord, or (iii) any expiration or termination of this Lease and the Demised Term, whether such dispossession, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Lease. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Lease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Lease for such breach. The rights to invoke the remedies hereinbefore set forth are cumulative and shall not preclude Landlord from invoking any other remedy allowed at law or in equity.

## **DAMAGES**

31. A. If this Lease and the Demised Term shall expire and come to an end as provided in Article 29 or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Demised Premises as provided in Article 30 or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

i. Tenant shall pay to Landlord all Rent, additional rent and other charges payable under this Lease by Tenant to Landlord to the date upon which this Lease and the Demised Term shall have expired and come to an end or to the date of re-entry upon the Demised Premises by Landlord, as the case may be; and

ii. Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency (referred to as "Deficiency") between the Rent and additional rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Demised Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 30.A for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Lease or Landlord's re-entry upon the Demised Premises and such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorney's fees, alteration costs and other expenses of preparing the Demised Premises for such reletting). Any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Lease for payment of installments of Rent. Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding; and

iii. At any time after the Demised Term shall have expired and come to an end or Landlord shall have re-entered upon the Demised Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Rent and additional rent reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Demised Term exceeds the then fair and reasonable rental value of the Demised Premises for the same period, both discounted to present worth at the rate of four (4%) percent per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Demised Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Demised Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Demised Premises so relet during the term of the reletting.

B. If the Demised Premises, or any part thereof, shall be relet together with other space in the Building, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Article 31. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Rent reserved in this Lease. Solely for the purposes of this Article, the term Rent as used in Article 31.A shall mean the Rent in effect immediately prior to the date upon which this Lease and the Demised Term shall have expired and come to an end, or the date of re-entry upon the Demised Premises by Landlord, as the case may be, plus any additional rent payable pursuant to the provisions of Article 11 for the Lease Year immediately preceding such event. Nothing contained in Articles 29 and 30 or this Article shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 31.A.

## **FEES AND EXPENSES**

32. If Tenant shall default in the performance of any covenant on Tenant's part to be performed in this Lease contained, Landlord may immediately, or at any time thereafter, without notice, perform the same for the account of Tenant. If Landlord at any time is compelled to pay or elects to pay any sum of money, or do any act which will require the payment of any sum of money, by reason of the failure of Tenant to comply with any provision hereof, or, if Landlord is compelled to or does incur any expense including reasonable attorneys' fees, instituting, prosecuting and/or defending any action or proceeding instituted by reason of any default of Tenant hereunder, the sum or sums so paid by Landlord with all interest, costs and damages, shall be deemed to be additional rent hereunder and shall be due from Tenant to Landlord on the first day of the month following the incurring of such respective expenses, or at Landlord's option on the first day of any subsequent month. In the event that Landlord shall institute any such action or proceeding by reason of a default by Tenant hereunder, and Tenant shall thereafter cure such default before judgment is entered in such action or proceeding, the sum of \$1,000 shall immediately become due and payable from Tenant to Landlord as and for liquidated damages on account of Landlord's attorneys' fees and other costs and expenses in connection therewith (said sum not to be deemed to be, or construed as, a limitation on Landlord's right to obtain reasonable attorneys' fees in a greater amount where such default is not so cured or where expenses were incurred prior to curing). Any sum of money (other than Rent) accruing from Tenant to Landlord pursuant to any provision of this Lease, whether prior to or after the Term Commencement Date, may, at Landlord's option, be deemed additional rent, and Landlord shall have the same remedies for Tenant's failure to pay any item of additional rent when due as for Tenant's failure to pay any installment of rent when due. Tenant's obligations under this Article shall survive the expiration or sooner termination of the Demised Term.

## **NO WAIVER**

33. A. No act or thing done by Landlord or Landlord's agents during the term hereby demised shall be deemed an acceptance of a surrender of said Demised Premises, and no agreement to accept such surrender shall be valid unless in writing signed by Landlord. No employee of Landlord or of Landlord's agents shall have any power to accept the keys of said Demised Premises prior to the termination of this Lease. The delivery of keys to any employee of Landlord or of Landlord's agents shall not operate as a termination of this Lease or a surrender of the Demised Premises. In the event of Tenant at any time desiring to have Landlord underlet the Demised Premises for Tenant's account, Landlord or Landlord's agents are authorized to receive said keys for such purposes without releasing Tenant from any of the obligations under this Lease, and Tenant hereby relieves Landlord of any liability for loss of or damage to any of Tenant's effects in connection with such underletting. The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease, or any of the Rules and Regulations annexed hereto and made a part hereof, or hereafter adopted by Landlord, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of Rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. The failure of Landlord to enforce any of the Rules and Regulations annexed hereto and made a part hereof, or hereafter adopted, against Tenant and/or any other tenant in the Building shall not be deemed a waiver of any such Rules and Regulations. No provision of this Lease shall be deemed to have been waived by Landlord, unless such waiver be in writing signed by Landlord. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent then owing nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease provided.

B. Landlord's failure to render a Landlord's Statement with respect to any Lease Year per Article 11 or Schedule C-1, Schedule C-2, shall not prejudice Landlord's right to render a Landlord's Statement with respect to any subsequent Lease Year. The obligations of Landlord and Tenant under the provisions of Article 11 or Schedule



C-1, Schedule C-2, with respect to any additional rent for any Lease Year shall survive the expiration or any sooner termination of the Demised Term.

## **WAIVER OF TRIAL BY JURY**

34. To the extent such waiver is permitted by law, Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by Landlord or Tenant against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of landlord and tenant, the use or occupancy of the Demised Premises by Tenant or any person claiming through or under Tenant, any claim of injury or damage, and any emergency or other statutory remedy. The provisions of the foregoing sentence shall survive the expiration or any sooner termination of the Demised Term. If Landlord commences any summary proceeding for nonpayment of rent or otherwise to recover possession of the Demised Premises, Tenant agrees not to interpose any counterclaim of any nature or description in any such proceeding.

## **BILLS AND NOTICES**

35. Except as otherwise expressly provided in this Lease, any bills, statements, notices, demands, requests or other communications given or required to be given under this Lease shall be effective only if rendered or given in writing, sent by registered or certified mail (return receipt requested optional), or by Federal Express, UPS, or any similar national overnight delivery service, addressed (A) to Tenant (i) at Tenant's address set forth in this Lease if mailed prior to Tenant's taking possession of the Demised Premises, or (ii) at the Building if mailed subsequent to Tenant's taking possession of the Demised Premises, or (iii) at any place where Tenant or any agent or employee of Tenant may be found if mailed subsequent to Tenant's vacating, deserting, abandoning or surrendering the Demised Premises, or (B) to Landlord at Landlord's address set forth in this Lease, or (C) addressed to such other address as either Landlord or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Article. Any such bill, statement, notice, demand, request or other communication shall be deemed to have been rendered or given on the date when it shall have been mailed as provided in this Article. Notices on behalf of Landlord may be signed and sent by Landlord's attorneys and/or its managing agent (currently We're Associates Inc.).

## **INABILITY TO PERFORM**

36. A. If, by reason of strikes or other labor disputes, fires or other casualty (or reasonable delays in adjustment of insurance), accidents, orders or regulations of any Federal, State, County or Municipal authority, or any other cause beyond Landlord's reasonable control, whether or not such other cause shall be similar in nature to those hereinbefore enumerated, Landlord is unable to furnish or is delayed in furnishing any utility or service required to be furnished by Landlord under the provisions of this Lease or any collateral instrument, or is unable to perform or make or is delayed in performing or making any installations, decorations, repairs, alterations, additions or improvements, whether or not required to be performed or made under this Lease or under any collateral instrument, or is unable to fulfill or is delayed in fulfilling any of Landlord's other obligations under this Lease or any collateral instrument, no such inability or delay shall constitute an actual or constructive eviction, in whole or in part, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise, nor shall any such delay or inability to perform on the part of Landlord in any way affect this Lease and the obligation of Tenant to pay rent hereunder and to perform all of the other covenants and agreements to be performed by Tenant hereunder.

## **INTERRUPTION OF SERVICE**

B. Landlord reserves the right to stop the services of the air conditioning, elevator, escalator, plumbing, electrical or other mechanical systems or facilities in the Building when necessary by reason of accident or emergency, or for repairs, alterations, replacements or improvements which in the judgment of Landlord are desirable or necessary, until such repairs, alterations, replacements or improvements shall have been completed. If Tenant is in default in the payment of Rent or additional rent, or in the performance of any other provisions of this Lease, and such default continues for ten (10) days after notice by Landlord to Tenant, then Landlord reserves the right to discontinue any or all of the services to the Demised Premises during the continuance of such default. The exercise of such rights by Landlord shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise.

## **CONDITIONS OF LANDLORD'S LIABILITY**

37. A. Tenant shall not be entitled to claim a constructive eviction from the Demised Premises unless Tenant shall have first notified Landlord of the condition or conditions giving rise thereto, and if the complaints be justified, unless Landlord shall have failed to remedy such conditions within a reasonable time after receipt of such notice.

B. If Landlord shall be unable to give possession of the Demised Premises on any date specified for the commencement of the term by reason of the fact that the Demised Premises have not been sufficiently completed to make same ready for occupancy, or for any other reason, Landlord shall not be subject to any liability for the failure to give possession on said date, nor shall such failure in any way affect the validity of this Lease or the obligations of Tenant hereunder. The provisions of this Article are intended to constitute "an express provision to the contrary" within the meaning of Section 223-a of the New York Real Property Law.

## TENANT'S TAKING POSSESSION

38. Tenant by entering into occupancy of the premises shall be conclusively deemed to have agreed that Landlord up to the time of such occupancy has performed all of its obligations hereunder and that the premises were in satisfactory condition as of the date of such occupancy, unless within ten (10) days after such date Tenant shall give written notice to Landlord specifying the respects in which the same were not in such condition.

## LIABILITY INSURANCE

39. A. Tenant will keep in force, at Tenant's expense at all times during the Demised Term and during such other times as Tenant occupies the Demised Premises or any part thereof:

(i) commercial general liability insurance or comprehensive general liability insurance with broad form endorsement with respect to the Demised Premises and the operations of Tenant and any persons under Tenant's control in, on or about the Demised Premises in which the limits of coverage shall be not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence;

(ii) statutory workers' compensation coverage and employers' liability as required by state law;

(iii) business interruption insurance for a period of not less than one year and such other insurance as Tenant deems necessary to protect its property and its business against all perils commonly insured against by prudent tenants;

(iv) such other insurance with respect to the Demised Premises and in such amounts as Landlord may from time to time reasonably require against such other insurable hazards or risks which at the time are commonly insured against in the case of property similar to the Demised Premises and used as provided herein.

B. The foregoing limits shall be increased from time to time in the event that Landlord, in its reasonable judgment, shall determine that the amounts of insurance are inadequate to pay any claims that may be brought under the foregoing policies. All policies required by this Lease shall be written on an occurrence basis. Such policies are to be written by a company having a general policy holder's rating of not less than A and a rating in financial size of not less than XI, as rated in the most current "Best's" insurance reports, and authorized and licensed to issue such policies in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, providing the policy properly allocates the required limits to the Demised Premises, or under a separate policy thereof. Each policy evidencing insurance as required to be carried by Tenant pursuant to this Article shall contain the following provisions and/or clauses: (i) a cross-liability clause; (ii) a provision in such policy that the coverage carried by Landlord shall be excess insurance; (iii) a provision including Landlord, Landlord's managing agent and other parties (including mortgagees) designated by Landlord as additional insureds (primary status, if available) (except with respect to workers' compensation insurance); (iv) a waiver by the insurer of any right of subrogation against Landlord, its agents, employees and representatives which arises or might arise by reason of any payment under such policy or by reasons of any act or omission of Landlord, its agents, employees, or representatives; (v) a severability clause; and (vi) a provision that the insurer will not cancel, materially change, reduce aggregates or coverage or fail to renew the coverage provided by such policy without first giving Landlord and all additional insureds thirty (30) days' prior written notice.

C. A copy of each paid-up policy or certificate of insurance accompanied by original endorsements signed by the insurance company evidencing the policies required hereunder, along with evidence of payment and appropriately authenticated by the insurer or its authorized agent certifying that such policy has been issued providing the coverage required by this Article, and containing provisions specified herein, shall be delivered to Landlord not less than fifteen (15) days prior to the earlier of (x) the Term Commencement Date, or (y) the date Tenant shall first take possession of the Demised Premises for any purpose, and, upon renewals, not less than thirty (30) days prior to the expiration of such coverage.

D. If Tenant fails to deliver to Landlord on time any required evidence of insurance coverage, or fails to carry any insurance required hereunder, or by law or governmental regulations, then Landlord may (but is not

obligated to) purchase the required coverage on behalf of Tenant, as provided above, in which event Tenant shall pay to Landlord on demand the cost of such insurance coverage plus ten percent (10%) of the amount of such cost as a service charge to Landlord. No such purchase by Landlord shall be deemed a waiver of Tenant's default and Landlord may pursue its full rights and remedies on account of such default.

## ENTIRE AGREEMENT

40. This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged herein. Neither Landlord nor Landlord's agent or representative has made any representation, or statement, or promise, upon which Tenant has relied regarding any matter or thing relating to the Building, the land allocated to it, (including the Building Parking Area) or the Demised Premises, or any other matter whatsoever, except as is expressly set forth in this Lease, including, but without limiting the generality of the foregoing, any statement, representation or promise as to the fitness of the Demised Premises for any particular use, the services to be rendered to the Demised Premises or the prospective amount of any item of additional rent. No oral or written statement, representation or promise whatsoever with respect to the foregoing or any other matter made by Landlord, its agents or any broker, whether contained in an affidavit, information circular, or otherwise shall be binding upon Landlord unless expressly set forth in this Lease. No rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth in this Lease. This Lease may not be changed, modified or discharged, in whole or in part, orally, and no executory agreement shall be effective to change, modify or discharge, in whole or in part, this Lease or any obligations under this Lease, unless such agreement is set forth in a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought. All references in this Lease to the consent or approval of Landlord shall be deemed to mean the written consent of Landlord, or the written approval of Landlord, as the case may be, and no consent or approval of Landlord shall be effective for any purpose unless such consent or approval is set forth in a written instrument executed by Landlord. Landlord and Tenant understand, agree, and acknowledge that (i) this Lease has been freely negotiated by both parties; (ii) Tenant is sophisticated in real estate matters or has employed professionals to assist Tenant in the negotiation of this Lease; and (iii) that, in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by reason of that party having drafted this Lease or any portion thereof.

## DEFINITIONS

41. The term "Landlord" as used in this Lease means only the owner, or the mortgagee in possession, for the time being of the land and Building (or the owner of a lease of the Building or of the land and Building) of which the Demised Premises form a part, so that in the event of any sale or other transfer of said land and Building or of said lease, or in the event of a lease of the Building, or of the land and Building, the said Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder, and it shall be deemed and construed as a covenant running with the land without further agreement between the parties or their successors in interest, or between the parties and the purchaser or other transferee at any such sale, or the said lessee of the Building, or of the land and Building, provided that the purchaser, transferee or the lessee of the Building assumes and agrees to carry out any and all covenants and obligations of Landlord hereunder. The words "re-enter", "re-entry" and "re-entered" as used in this Lease are not restricted to their technical legal meanings. The term "business days" as used in this Lease shall exclude Saturdays, (except such portion thereof as is covered by specific hours in Article 6 hereof), Sundays and all days observed by the State and Federal Government as legal holidays.

The terms "person" and "persons" as used in this Lease shall be deemed to include natural persons, firms, corporations, associations and any other private or public entities, whether any of the foregoing are acting on their own behalf or in a representative capacity.

## PARTNERSHIP TENANT

42. If Tenant is a partnership (or is comprised of two (2) or more persons, individually and as co-partners of a partnership) or if Tenant's interest in this Lease shall be assigned to a partnership (or to two (2) or more persons, individually and as co-partners of a partnership ) pursuant to Article 21 (any such partnership and such persons being referred to in this Section as "Partnership Tenant"), the following provisions of this Section shall apply to such Partnership Tenant: (a) the liability of each of the parties comprising Partnership Tenant shall be joint and several, and (b) each of the parties comprising Partnership Tenant hereby consents in advance to, and agrees to be bound by, any modifications of this Lease which may hereafter be made and by any notices, demands, requests or other communications which may hereafter be given, by Partnership Tenant or by any of the parties comprising Partnership Tenant, and (c) any bills, statements, notices, demands, requests or other communications given or rendered to Partnership Tenant or to any of the parties comprising Partnership Tenant shall be deemed given or rendered to Partnership Tenant and to all such parties and shall be binding upon Partnership Tenant and all such parties, and (d) if Partnership Tenant shall admit new partners, all of such new partners shall, by their admission to

Partnership Tenant, be deemed to have assumed performance of all of the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed, and (e) Partnership Tenant shall give prompt notice to Landlord of the admission of any such new partners, and upon demand of Landlord, shall cause each such new partner to execute and deliver to Landlord an agreement in form satisfactory to Landlord, wherein each such new partner shall assume performance of all of the terms, covenants and conditions of this Lease on Tenant's part to be observed and performed (but neither Landlord's failure to request any such agreement nor the failure of any such new partner to execute or deliver any such agreement to Landlord shall vitiate the provisions of subdivision (d) of this Article).

### **SUCCESSORS, ASSIGNS, ETC.**

43. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, distributees, executors, administrators, successors, and, except as otherwise provided in this Lease, their respective assigns.

### **APPLICATION OF INSURANCE PROCEEDS, WAIVER OF SUBROGATION**

44. In any case in which Tenant shall be obligated under any provisions of this Lease to pay to Landlord any loss, cost, damage, liability or expense suffered or incurred by Landlord, Landlord shall allow to Tenant as an offset against the amount thereof the net proceeds of any insurance collected by Landlord for or on account of such loss, cost, damage, liability or expense, provided that the allowance of such offset does not invalidate or prejudice the policy or policies under which such proceeds were payable. In any case in which Landlord shall be obligated under any provisions of this Lease to pay to Tenant any loss, cost, damage, liability or expense suffered or incurred by Tenant, Tenant shall allow to Landlord as an offset against the amount thereof the net proceeds of any insurance collected by Tenant for or on account of such loss, cost, damage, liability or expense, provided that the allowance of such offset does not invalidate or prejudice the policy or policies under which such proceeds were payable.

### **CAPTIONS AND INDEX**

45. The captions and the index at the beginning of this Lease, if any, are included only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Lease nor the intent of any provisions thereof.

### **RECOVERY FROM LANDLORD**

46. D. Tenant shall look solely to the estate and property of Landlord in the land and building of which the Demised Premises are a part, for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms, covenants and/or conditions of this Lease to be observed and/or performed by Landlord, and no other property or assets of such Landlord shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies.

E. With respect to any provision of this Lease which provides for Landlord's approval and/or consent, Tenant, in no event, shall be entitled to make, nor shall Tenant make any claim, and Tenant hereby waives any claim, for money damages; nor shall Tenant claim any money damages by way of set-off, counterclaim or defense, based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed any such consent or approval.

### **BROKER**

47. Tenant represents and warrants to Landlord that \_\_\_\_\_ is the sole broker who brought the Demised Premises to Tenant's attention and with whom Tenant has negotiated in bringing about this Lease. Tenant agrees to indemnify, defend and save Landlord harmless of, from and against any and all claims (and all expenses and fees, including attorneys fees, related thereto) for commissions or compensation made by any other broker or entity, arising out of or relating to the breach by Tenant of the foregoing representation. As, if and when this Lease shall be fully executed and unconditionally delivered by both Landlord and Tenant, Landlord agrees to pay any commission that may be due the above-named broker in connection with this Lease in accordance with a separate agreement between Landlord and said broker.

### **SECURITY DEPOSIT**

48. Tenant has deposited with Landlord the sum of \$\_\_\_\_, as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this lease; it is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any sum; as to which Tenant is in default. In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this lease, the security shall be returned to Tenant after the date fixed as the end of this

lease and after delivery of entire possession of the Demised Premises to Landlord. In the event of a sale of the land and Building or leasing of the Building, Landlord shall have the right to transfer the security to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return of such security. If, as a result of any application of all or any part of the security deposit, the amount of the security deposit being held by Landlord shall be less than the amount required to be held hereunder, Tenant shall forthwith provide Landlord with additional funds in an amount equal to the deficiency. In the event that Tenant shall be in default in the payment when due of any installment of rent or additional rent and an Event of Default shall occur as defined in subparagraph 29.A.i. of this Lease, on the third (3rd) time such Event of Default occurs, Tenant shall promptly deposit with Landlord the sum of \$\_\_\_\_\_ as additional security.

**SEVERABILITY OF PROVISIONS**

49. If any provision or any portion of any provision of this Lease or the application of any such provision or any portion thereof to any person or circumstance, shall be held invalid or unenforceable, the remaining portion of such provision and the remaining provisions of this Lease, or the application of such provision or portion of such provision as is held invalid or unenforceable to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and such provision or portion of any provision as shall have been held invalid or unenforceable shall be deemed limited or modified to the extent necessary to make it valid and enforceable; in no event shall this Lease be rendered void or unenforceable.

**RENEWAL OPTION**

50. A. The Tenant shall have the option, to be exercised as hereinafter provided, to extend the Demised Term for a period of five (5) years upon the following terms and conditions:

B. That at the time of the exercise of such option the Tenant shall not be in default in the performance of any of the terms, covenants or conditions herein contained with respect to a matter as to which notice of default has been given hereunder and which has not been remedied within the time limited in this Lease.

C. That at the time of the exercise of such option and at the time of the commencement of such extended period the Tenant shall not have assigned this Lease or sublet any portion of the demised premises (except per subsection 21 f. hereof).

D. That such extension shall be upon the same terms, covenants and conditions as in this Lease provided, except that (i) there will be no further privilege of extension for the Demised Term beyond the period referred to above; (ii) during the renewal period, the annual rental payable by Tenant to Landlord shall be as follows:

<u>Lease Year</u>	<u>Base Annual Rent</u>	<u>Base Annual Common Area Electric*</u>	<u>Total Base Annual Rent and Common Area Electric*</u>	<u>Total Base Monthly Rent and Common Area Electric*</u>
4/1/27 – 9/30/27	\$	\$	\$	\$
10/1/27 – 9/30/28	\$	\$	\$	\$
10/1/28 – 9/30/29	\$	\$	\$	\$
10/1/29 – 9/30/30	\$	\$	\$	\$
10/1/30 – 9/30/31	\$	\$	\$	\$
10/1/31- 3/31/32	\$	\$	\$	\$

\* Note: \$Base Annual Common Area Electric is subject to escalations pursuant to Schedule C-1

B. The Base Annual Rent and Base Annual Common Area Electric payable by Tenant for the Storage Space shall be as follows:

<u>Lease Year</u>	<u>Base Annual Rent</u>	<u>Base Annual Common Area Electric*</u>	<u>Total Base Annual Rent and Common Area Electric**</u>	<u>Total Base Monthly Rent and Common Area Electric *</u>
4/1/27 – 9/30/27				
10/1/27 – 9/30/28				
10/1/28 – 9/30/29				
10/1/29 – 9/30/30				
10/1/30 – 9/30/31				

10/1/31- 3/31/32				
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\* Note: \$Base Annual Common Area Electric is subject to escalations pursuant to Schedule C-1

(iii) during the extension period, the base year for determining additional rent under the escalation clause, Article 11, shall remain unchanged and continue to be the base year established at the commencement of the Demised Term.

E. Notwithstanding anything in this Article contained to the contrary, the Tenant shall not be entitled to an extension, if at the time of the commencement of the extended period the Tenant shall be in default under any of the terms, covenants or conditions of this Lease with respect to a matter as to which notice of default has been given hereunder and which has not been remedied within the time limited in this Lease, or if this Lease shall have terminated prior to the commencement of said period.

F. The Tenant shall exercise its option to the extension of the Demised Term by notifying the Landlord of the Tenant's election to exercise such option at least twelve (12) months prior to the expiration of the initial Demised Term. Upon the giving of this notice, this Lease shall be deemed extended for the specified period, subject to the provisions of this Article, without execution of any further instrument.

**ROOFTOP USE**

51. Landlord grants Tenant the right, in common with Landlord and other tenants of the Building, to install, operate and maintain, at Tenant's expense and risk, equipment used in connection with Tenant's operations in the demised premises (the "Rooftop Equipment") at a location on the roof of the Building to be determined by Landlord (the "Rooftop Premises") subject to the terms and conditions set forth in the Rooftop Use Agreement annexed hereto as Exhibit 2.

**CONFERENCE FACILITY**

52. Landlord at Landlord's expense will maintain a conference facility in the Building. Tenant and its employees shall be permitted to use the conference facility of the Building subject to Rules and Regulations of Landlord now or hereafter imposed, of which Tenant receives written notice. Tenant agrees to indemnify, defend and hold Landlord harmless from and against any such claims, losses or liabilities arising out of Tenant's use of the conference facility. Tenant's use of the conference will be at the rate of \$250.00 per half day (either 9 a.m.- 1 p.m. or 1p.m.- 5 p.m.) and \$400.00 for a whole day (9 a.m. to 5 p.m.) (subject to reasonable increases in the sole discretion of Landlord), except that Landlord will waive the fee for the use of the conference room for twelve (12) full day uses of the conference facility during each calendar year of the Lease. The forgoing waiver shall not accumulate and shall have no cash or other value if not used.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

**LANDLORD:**  
 BY: JQ III ASSOCIATES, LLC

**TENANT:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: Manager

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

State of            )  
                          )ss.:  
County of         )

On the \_\_\_\_ day of June, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

State of            )  
                          )ss.:  
County of         )

On the \_\_\_\_ day of June, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

## SCHEDULE A

### LANDLORD'S INITIAL CONSTRUCTION

LANDLORD WILL PREPARE TENANT'S SUITE IN ACCORDANCE WITH THE WORKING DRAWINGS AT LANDLORD'S COST TO THE FOLLOWING SPECIFICATIONS:--

I. A. Landlord will erect the necessary dividing walls between Demised Premises and any surrounding premises. Such walls will be constructed of 2.5" metal stud, 5/8" gypsum board, and will be insulated with continuous batts of 3" fiberglass for sound attenuation.

B. Landlord will furnish and install for each suite a building standard corridor entranceway of special design as well as any auxiliary corridor entranceways required under law.

C. Landlord will erect in accordance with the approved plan, dry-wall partitioning, consisting of 2.5" steel stud framing and 5/8" gypsum board, not to exceed one lin. ft. of partitioning for every 13.5 square feet of ratable space.

D. Landlord will furnish and install in dry wall partitioning building standard, one piece hollow metal door frames and 1 3/4" solid core oak door (3'-0" x 7'-0") equipped with 1 1/2 pair of 4 1/2" x 4 1/2" butts and building standard latch set.

E. Landlord will spackle and tape walls three coats to a smooth and true finish.

F. Landlord will paint walls two coats flat latex paint from the Benjamin Moore Regal Popular Interior Whites collection or equal. No room shall have more than one color. Doors and trim will be painted two coats matching semi-gloss enamel.

G. Landlord will furnish and install 26 oz./sq. yd. commercial nylon textured loop carpet with a woven polypropylene backing. The carpet shall be as manufactured by Cambridge - Winford III or equal. Landlord will furnish and install 4" vinyl cove base on all drywall partitions.

H. Landlord will provide a 2' x 2' acoustical tile ceiling with a Travertine finish of building standard specification as manufactured by National Gypsum Corporation or equal.

I. Landlord will provide 2' x 4', fully recessed, direct / indirect high-performance lay-in lighting fixtures. These will be positioned to conform to the room layout in the manner best allowed by the ceiling grid pattern. Each fixture will be equipment with an electronic ballast and two (2) 32-watt fluorescent lamps.

The number of fixtures furnished and installed will be at the rate of one fixture per 80 sq. ft. of usable area, providing light intensities and concomitant energy consumption recommended by the New York State Energy Conservation Code.

J. Landlord will provide a flush type, circuit breaker panel at a convenient location within the Tenant's space. Panel capacity shall be adequate to carry all tenant lighting and equipment load providing such equipment load does not exceed 5 watts per square foot of usable area. Voltage characteristic available at this panel will be 208 volts 3 phase, 208 volt 1 phase; and 120 volt 1 phase.

K. Landlord will provide 120 volt convenience duplex receptacles in the walls in general accordance with tenant's layout, such locations being adjusted to follow good practice. Quantity of receptacles shall not exceed one receptacle per 120 sq. ft. of ratable area. Tenant, at its option, may substitute one electric floor head for each three convenience duplex wall receptacles.

L. Landlord, in accordance with New York State Energy Conservation Code and the Regulations of the United States Department of Energy will modify the air-conditioning system by the addition of ducts, registers, diffusers and other appurtenances to provide fresh air at a rate not less than .15 cubic feet per minute per square foot of usable area on average and to maintain the premises at not less than 65oF Dry Bulb and not more than 78oF Dry Bulb providing that (1) outside temperatures are not less than 15oF Dry Bulb nor more than 89oF Dry Bulb; (2) outside Wet Bulb temperature does not exceed 73oF when outside Dry Bulb temperature is 89oF and (3) the sources of heat within the Demised Premises in any given room or area do not exceed (a) one person per 100 square feet of usable area and (b) a light and equipment load of four (4) watts per



square foot of usable area for all purposes.

## **BUILDING IMPROVEMENTS**

### **1. Public Lobbies**

New Flooring, wall covering, and ceiling lighting to mirror the finishes at 100 Jericho Quadrangle.

### **2. Elevators**

New cab interiors for all elevators (other than Tenant's Exclusive Elevator) consistent with first-class office buildings in Nassau County, the specifications for which shall be selected in consultation with Tenant.

### **3. Bathrooms**

Renovate public bathrooms similar to 100 Jericho Quadrangle.

### **4. Recreation Area**

a. Landlord, at its expense, shall construct and install one basketball and one tennis court in front of the Building.

b. In the lower level of the Building, Landlord at its expense shall construct a fitness facility similar in size and scope to the fitness facility located at 50 Jericho Quadrangle, Jericho, NY, and shall reasonably expand the shower, lavatory, and locker areas, all of which is more fully described on the Recreation Plans.

II. The work and installations required to be performed and made by Landlord pursuant to the provisions of paragraph I of this Schedule shall be equal to standards adopted by Landlord for the Building. Landlord's Initial Construction shall constitute a single nonrecurring obligation on the part of Landlord.

III. After the Term Commencement Date, Landlord may enter the Demised Premises to complete unfinished details of Landlord's Initial Construction, and entry by Landlord, its agents, servants, employees or contractors for such purpose shall not constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under this Lease, or impose any liability upon Landlord or its agents by reason of inconvenience or annoyance to Tenant, or injury to or interruption of Tenant's business, or otherwise.

IV. In the event the Tenant desires any additional work, materials or installations (referred to collectively as "Extra Work") to be supplied and installed by Landlord over and above the work, materials and installations to be supplied and installed by Landlord pursuant to the provisions of paragraph I of this schedule, then the Landlord will furnish and construct such Extra Work on the basis of cost plus 15% of such cost and expense for overhead and an additional 10% of the resulting total as a supervisory fee. In the event the Tenant is not satisfied with Landlord's quotation on the foregoing basis then the Tenant may obtain an outside quotation and Landlord must then meet that quotation and perform the work for that price, or alternatively use the sub-contractor whose quotation was furnished by the Tenant and for which the Tenant will pay to the Landlord the sub-contractor's quotation plus 5% of such cost and expense for overhead and an additional 10% of the resulting total as a supervisory fee. Tenant shall pay to Landlord the cost of such Extra Work as additional rent within five (5) business days next following the rendition of a statement to Tenant. Landlord will not be required to perform any Extra Work which: (1) will require the use of contractors of a type other than those normally engaged by Landlord in the construction of the Building, or (2) will tend to delay completion of Landlord's Initial Construction, or (3) is not practicable and consistent with existing physical conditions in the Building and with the architectural, structural and mechanical plans for the Building, or (4) will impair Landlord's ability to perform any of Landlord's obligations under the provisions of this Lease, or (5) will affect any portion of the Building other than the Demised Premises. Tenant shall not be entitled to any allowance from Landlord by reason of any omission or substitution in Landlord's Initial Construction made at the direction of Tenant.

## **SCHEDULE B**

### **LANDLORD'S CLEANING SERVICES AND MAINTENANCE OF PREMISES**

(to be performed on all business days (Monday-Friday) except those which are union holidays of the employees performing cleaning service and maintenance in the Building and grounds or on days on which the Building is closed.)

#### **I. CLEANING-SERVICES-PUBLIC SPACES:**

- A. Floor of entrance lobby and public corridors will be vacuumed or swept nightly and washed and waxed as necessary.
- B. Entranceway glass will be cleaned daily.
- C. Wall surfaces and elevator cabs will be kept in clean condition.
- D. Lighting fixtures will be cleaned monthly. Bulbs will be replaced daily as needed.
- E. Restrooms will be washed and disinfected once a day. All brightwork and mirrors will be wiped daily. Dispensers will be checked and receptacles emptied daily.
- F. Exterior surfaces of all windows of the building will be cleaned semi-annually.
- G. A uniformed custodian will be available during the weekday working hours for the servicing of public spaces, sweeping and cleaning of walks and stairs and for special duties during inclement weather.

#### **II. CLEANING SERVICES-TENANT SPACES:**

- A. Floors will be swept nightly. Carpets will be swept daily with carpet sweeper and vacuumed weekly.
- B. Office equipment, telephones, etc. will be dusted nightly.
- C. Normal office waste in receptacles and ashtrays will be emptied nightly.
- D. Interior surface of windows and sills will be washed and blinds dusted semi-annually.
- E. All walls, partitioning, louvers, wall hangings, lighting fixtures, moldings and heating units will be dusted and wiped down semi-annually.
- F. Kitchen and bathroom facilities within Tenant Space (Demised Premises) are not included in the normal cleaning service, but cleaning can be provided at an additional charge.

#### **III. EXTERIOR SERVICES:**

- A. Parking fields will be regularly swept, cleared of snow in excess of two inches and generally maintained so as to be well drained, properly surfaced and striped.
- B. All landscaping, gardening, exterior lighting and irrigation systems will have regular care and servicing.

#### **IV. EQUIPMENT SERVICES:**

- A. All central air-conditioning equipment, elevators, public area plumbing and electrical facilities will be regularly serviced and maintained. All Tenant supplemental HVAC Systems to be serviced by or at Tenant's expense.
- B. All doors and hinges will be repaired as necessary, unless repair is necessitated by Tenant's misuse.
- C. All appurtenances, such as rails, stairs, etc. will be maintained in a safe condition.

## SCHEDULE C-1

### TENANT COMMON AREA ELECTRIC

1. Landlord shall provide at the rates hereinafter set forth and Tenant shall purchase from Landlord "electric service" for the common areas of the Building.

2. Charges for COMMON AREA SERVICE: The charge for COMMON AREA SERVICE is payable at a rate of One dollar and 25 cents (\$1.25) per annum, per rentable square foot (62,355) of the Office Space and is subject to escalation as hereinafter provided. The charge for COMMON AREA SERVICE is included in the base annual yearly rent set forth in Article 3.A.

3. Escalation of charges for COMMON AREA SERVICE: If the total price per kilowatt hour (including, but not limited to, rates, fuel adjustment costs and State and Local taxes) charged to the Landlord exceeds the BASE COST PER KILOWATT HOUR as hereinafter defined, then the Landlord's charge for each month of the year following the BASE YEAR and for each successive year shall be increased or decreased by the percentage increase or decrease between BASE COST PER KILOWATT HOUR and CURRENT COSTS PER KILOWATT HOUR as hereinafter defined.

This increase or decrease shall be calculated by determining the average cost of electricity for the preceding lease year and dividing it by the base cost of electricity and multiplying by 100. *For example: for the 3<sup>rd</sup> lease year:*

*Assume the Base Cost of electricity is \$0.15 per KW-HR*

*Assume Current cost of electricity for the entire 2<sup>nd</sup> lease year is \$0.154 per KW-HR*

*Then the percentage increase of the cost of electricity for the 2nd lease year would be calculated as follows:  $0.004/0.150 \times 100 = 0.0267$  or 2.67%*

4. The BASE YEAR is defined as the twelve individual but full months immediately preceding the commencement of the Lease.

5. BASE COST PER KILOWATT HOUR is defined as the Landlord's average cost per kilowatt hour to operate the entire Building during the base year. It shall be determined by dividing the total cost of electricity (including sales tax) by the total KILOWATT HOURS consumed as indicated on the utility bill(s) for the base year period.

6. The CURRENT COST PER KILOWATT HOUR is defined as the Landlord's average cost per kilowatt hour to operate the entire Building for that lease year. The Average Cost will be determined by dividing the total cost of electricity (including sales tax) by the total KILOWATT HOURS consumed as indicated on the utility bill(s) for the base year period during the year for which the escalation is being calculated for.

7. All electricity consumed by supplemental HVAC units shall be metered and billed independently pursuant to Schedule C-2.

## SCHEDULE C-2

### TENANT ELECTRIC

1. A. The Demised Premises shall be equipped by Landlord at its expense with its own electrical meter or meters which in the aggregate shall measure the total electrical current, in Kilowatt hours, used by the Tenant within the Office Space.

B. The Tenant shall pay to the Landlord as additional rent for all electricity consumed within the Demised Premises regardless of the hour at which it is consumed, an amount equal to 105% of the Landlord's average cost per Kilowatt hour ("KWH") for each KWH of electricity consumed by Tenant during the term of the Lease. Such bills shall be monthly or at other convenient periods for Landlord and shall be based upon a reading of Tenant's meter or meters. Landlord's average cost per KWH shall be determined by dividing the total cost (including fuel adjustments and sales tax) of electricity to Landlord, as shown on the utility bill for 300 Jericho Quadrangle, Jericho, New York, divided by the total number of KWH shown on said utility bills.

If, for any reason, a reading of Tenant's electric meter cannot be obtained due to the failure of such meter to properly record or otherwise then, in such an event, Tenant shall pay Landlord for any month during which a meter reading could not be obtained a sum equal to the electric charge based on the average meter reading for the prior two months.

2. A. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electric energy furnished to the Office Space. Tenant, at Tenant's expense, shall maintain and as necessary replace all lighting tubes, lamps, bulbs, and fixtures located in the Demised Premises.

B. Tenant's use of electric energy in the Office Space shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Office Space. In order to ensure that such capacity is not exceeded, to avert possible adverse effect upon the Building electric service, and to ensure the electricity energy use in the Building is properly metered, Tenant shall not, without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld, connect any additional fixtures, appliances or equipment drawing more than 20 amperes (other than typewriters and similar small office machines) to the Building electric distribution system. Should Landlord grant such consent, all additional meters, risers or other equipment required therefor shall be installed by Landlord and the cost thereof shall be paid by Tenant upon Landlord's demand.

3. If as the result of any order or regulation of any public body having jurisdiction, it is no longer possible to meter Tenant's consumption of electricity, a survey of Tenant's consumption shall be conducted from time to time, but not less frequently than annually, by an electrical engineer mutually agreeable to the parties. Electricity consumed within the Office Space shall be determined by such survey, and the charge therefor shall be determined by paragraph B hereof.

## SCHEDULE D

### RULES AND REGULATIONS

1. Tenants employees and visitors shall not obstruct or encumber any entrance, passage, court, elevator, vestibule, corridor, hallway, nor any other building common area. These areas shall not be used for storage or any purpose other than ingress and egress to and from the Demised Premises.

2. Any person whose presence in the Building at any time shall, in Landlord's judgment, be prejudicial to the safety, character, reputation, and interest of the Building or of its tenants may be denied access to the Building or may be ejected therefrom. Landlord may refuse admission to the Building outside of ordinary business hours to any person not known to the watchman in charge or not having a pass issued by Landlord or not properly identified, and may require all persons admitted to or leaving the Building to register.

3. Landlord may require any person leaving the Building with any package or other object to exhibit a pass from the tenant from whose premises the package or object is being removed, but the establishment and enforcement of such requirements shall not impose any responsibility on the Landlord for the protection of any tenant against the removal of property from the premises of the tenant. Landlord shall, in no way, be liable to any tenant for damages or loss arising from the admission, exclusion or ejection of any person to or from the Demised Premises or the Building under the provision of this Rule.

4. Canvassing, soliciting and peddling in the Building is prohibited and each Tenant shall cooperate to prevent the same. No tenants shall obtain or accept for use in the Demised Premises, ice, towel, barbering, bootblackening, floor polish, catering service or other similar services. from any persons not authorized by the Landlord in writing to furnish such services. Such services shall be furnished only at hours and under regulations fixed by the Landlord.

5. Tenant shall not attach, permit, or suffer the attachment of any awnings or other projections to the outside walls of the Building without the prior written consent of the Landlord. No curtains, blinds, shades, or screens shall be attached to or hung in, or used in connection with, any window or door of the premises, without the Landlord's prior written consent.

6. Tenant shall not install curtains, blinds, shades, or screens, or cover or obstruct any door or window that reflects or admits light into the building. Tenants shall keep all windows and sills clear.

7. Building bathrooms and all plumbing fixtures shall be used only for the purposes for which they were constructed. Tenants, employees, and visitors shall not dispose of any office or outside material in the building bathrooms or the fixtures and receptacles therein. All damages resulting from any misuse of the fixtures shall be borne by the Tenant who, or whose servants, employees, agents, visitors or licensees, shall have caused the same.

8. No Tenant shall mark, paint, drill into, or in any way deface any part of the Demised Premises or the Building of which they form a part. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of the Landlord, and as the Landlord may direct. No Tenant shall lay linoleum, or other similar floor coverings, so that the same shall come in direct contact with the floor of the Demised Premises, and, if linoleum or other similar floor covering is desired to be used an interlining of builder's deadening felt shall be first affixed to the floor, by a paste or other material, soluble in water, the use of cement or other similar adhesive material being expressly prohibited.

9. No Tenant shall make, or permit to be made, any unseemly or disturbing noises or disturb or interfere with occupants of this or neighboring buildings or premises or those having business with them whether by the use of any instrument, radio, talking machine, unmusical noise, whistling, singing, or in any other way.

10. No Tenant, nor any of Tenant's servants, employees, agents, visitors or licensees, shall at any time bring or keep upon the Demised Premises any inflammable, combustible or explosive fluid, chemical or substance, or cause or permit any unusual or objectionable odors to be produced upon or permeate from the Demised Premises.

11. Any tenant moving into or out of the Building shall schedule the move with Landlord and comply with the Move in/ Move Out Regulations that are distributed by Landlord. Moving in or out includes the removal or carrying in of any safe, freight, furniture, or otherwise bulky manner. Landlord reserves the right to inspect all freight to be brought into the Building and to exclude from the Building all freight which violates any provision of the lease of which these Rules and Regulations are a part.

12. All machinery shall be placed by Tenant in the Demised Premises in approved setting to absorb or prevent any vibration, noise or annoyance.

13. Tenant shall not affix any sign, notice, or advertisement on any door, wall, or window outside of the Demised Premises.

14. Any person employed by any Tenant to do janitor work, shall, while in the Building and outside of said Demised Premises, be subject to the direction of the Superintendent of the Building (but not as agent or servant of said Superintendent or of the Landlord).

15. No tenant shall clean, or permit to be cleaned, any window of the Building from the outside in violation of Section 202 of the New York Labor Law or successor law or statute, or of any board or body having or asserting jurisdiction. No Tenant use, or permit to be used, any ladder or scaffolding in such a way that would violate Section 202 of the New York Labor Law.

16. No water cooler (excluding bottled water), air conditioning unit or system, electric heating unit, or other apparatus shall be installed or used by any Tenant without the written consent of Landlord which consent shall not be unreasonably withheld

17. No additional locks or bolts of any kind shall be placed upon any of the doors or windows by any tenant, nor shall any changes be made in existing locks or the mechanism thereof. Each tenant must, upon the termination of its tenancy, restore to Landlord all keys of offices and toilet rooms, either furnished to, or otherwise procured by, such tenant, and in the event of the loss of any keys, so furnished, such tenant shall pay to Landlord the cost thereof.

18. Tenant shall not do any cooking, conduct any restaurant, luncheonette or cafeteria for the sale or service of food or beverages to its employees or to others, or cause or permit any odors of cooking or other processes, or any unusual or objectionable odors to emanate from the Demised Premises. Tenant shall not install or permit the installation or use of any food, beverage, cigarette, cigar or stamp dispensing machine; except by such persons delivering the same as shall be approved by Landlord.

19. The Building and the Demised Premises are "no smoking" areas; and Tenant shall so inform its employees and visitors. Tenant shall cooperate with Landlord in enforcing such prohibition.

20. The following are prohibited in the Building at all times:

- A. Any lit cigar, cigarette, other tobacco product, candle, incense, lighter, or other inflammable.
- B. Any cat, dog, domestic or wild animal or pet.
- C. Any bicycle, scooter, skateboard, rollerblade (or skate).
- D. Any shopping cart or wagon, any lift, cart, handtruck, or dolly that has not been approved in writing by the Landlord.
- E. Any controlled substance or alcoholic beverage.
- F. Any obscene, elicit, or otherwise unlawful, material.

21. Each tenant, before closing and leaving its Demised Premises, shall lock all entrance doors and secure all windows.

22. Landlord reserves the right to rescind, alter or waive any rule or regulation at any time prescribed for the Building, when, in its judgment, it deems it necessary, desirable or proper for its best interest and for the best interests of the tenants, and no alteration or waiver of any rule or regulation in favor of one tenant shall operate as an alteration or waiver in favor of any other tenants.

23. The requirements of tenants will be attended to only upon application at the office of Landlord. Tenants shall refrain from requesting services directly from the building staff. Building employees shall not be required to perform, and shall not be requested by any tenant or occupant to perform, any work outside of their regular duties, unless under specific instructions from the office of Landlord.

## Parking

24. All parking against planted areas shall be front end forward to curb to prevent the exhaust of the vehicle upon starting from destroying the shrubbery and so that the long overhang of the rear of the automobile will not break the shrubbery.

25. After a snow fall automobiles in the Building parking area will be moved by the owners as requested in order to complete snow removal.

26. The parking fields, planted areas and lawn areas surrounding the Building shall not be used for recreational purposes or lounging.

27. No tenant, nor any of its officers or employees, regularly assigned to the Demised Premises in the Building may use the area of the parking field set aside for visitors.

**ROOFTOP USE AGREEMENT**

Upon the condition that no Event of Default under the lease agreement dated as of June \_\_\_\_, 2015 by and between JQIII Associates, LLC., a New York limited liability Company having its principal office at 100 Jericho Quadrangle, Jericho, New York 11753, hereinafter referred to as "Landlord" and State Farm Mutual Automobile Insurance Company, with offices located at One State Farm Plaza, Bloomington, IL 61710, hereinafter referred to as "Tenant" shall have occurred and be continuing, Landlord grants to Tenant the right, in common with Landlord and other tenants of 300 Jericho Quadrangle, Jericho, New York 11753 (the "Building"), to install, operate and maintain, at Tenant's sole expense and risk, one (1) antenna or satellite dish not to exceed three (3) feet in diameter used in connection with Tenant's operations in the demised premises (the "Rooftop Equipment") at a location on the roof of the Building to be determined by Landlord (the "Rooftop Premises"):

- a. The term of this Agreement shall be coterminous with Tenant's occupancy of the Building.
- b. Tenant shall submit to Landlord for its approval, a full set of engineering plans and specifications for the proposed Rooftop Equipment installation, such approval not to be unreasonably withheld, conditioned or delayed;
- c. Installation of the Rooftop Equipment will be monitored by Landlord's personnel at Tenant's expense. Mechanic labor will be billed at \$90.00 per hour plus a 10% management fee. All roof penetrations will be performed by Landlord's contractors at Tenant's expense. The Building's mechanical rooms will be inspected by Landlord's personnel before and after installation. Tenant will have its contractor(s) remove all debris from these rooms and leave them in the same state of cleanliness as prior to the installation. All floor penetrations in the interior of the Building must run through conduit set in firestopping sleeves. The Rooftop Equipment must be clearly marked with Tenant's name. Tenant shall make all required conduit or cable connections between Tenant's equipment and the Rooftop Equipment subject to approval of such connections by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed;
- d. Any Rooftop Equipment installed by Tenant shall be erected so as not to interfere with the operation of any previously erected antenna(e) or other equipment at the Building; Tenant shall, from time to time throughout the demised term, make such modifications and alterations to the Rooftop Equipment as may be reasonably requested by Landlord in order to accommodate the installation, use and maintenance of such other antenna(e) or other equipment on the roof of the Building as Landlord may permit to be hereafter installed and used at the Building for the benefit of Landlord or any other tenants of the Building so as to permit all of such equipment to be operated without interference;
- e. Tenant and its employees, agents and contractors shall, at all reasonable times and with reasonable notice to Landlord, have the right to enter or leave the Rooftop Premises for the purpose of maintaining, repairing, servicing and replacing the Rooftop Equipment; anything herein to the contrary notwithstanding, Landlord shall have no obligation to provide such access except during the hours of 8:00 A.M. to 6:00 P.M. on weekdays and on Saturdays from 9:00 A.M. to 1:00 P.M. (Working Hours), excluding legal holidays (presently, New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day).
- f. Tenant, at its expense, shall obtain all necessary municipal, state and federal or other permits, licenses and authorizations required to install, maintain and operate the Rooftop Equipment, and pay any charges levied by government or other agencies or entities which are the result of Tenant having the Rooftop Equipment. Landlord agrees to fully cooperate with Tenant in obtaining all such permits, licenses and authorizations, at no cost or expense to Landlord;
- g. Tenant agrees to maintain the Rooftop Equipment and Rooftop Premises in a good state of repair;
- h. At the earlier of the termination, default or conclusion of this agreement, Tenant shall, at its expense, remove the Rooftop Equipment and surrender and restore the Rooftop Premises to Landlord in substantially as good condition as when entered, except for loss or damages resulting from casualty, condemnation, act of God or ordinary wear and tear;
- i. In the event that Tenant fails to remove the Rooftop Equipment as hereinbefore provided, Tenant agrees that Landlord shall have the right to remove the Rooftop Equipment at Tenants' sole cost and expense. If



Tenant fails to remove the Rooftop Equipment, in addition to all other remedies, Tenant agrees to pay \$200.00 per day for each additional day the Rooftop Equipment remains at the Building;

j. The liability insurance to be carried by Tenant pursuant to the provisions of the leases for the spaces in the Building shall include coverage for Tenant's activity on the Rooftop Premises, and shall name Landlord and We're Associates, Inc. as additional insureds;

k. Tenant shall, upon Landlord's request, and at Tenant's sole cost, temporarily relocate the Rooftop Equipment as may be reasonably required in connection with Landlord's maintenance and repair of the roof of the Building;

L. Tenant hereby agrees to indemnify, defend, and save Landlord harmless of, from and against any and all claims, costs, liabilities, judgments and/or expenses [including, (without limitation) reasonable attorneys' fees and disbursements] arising out of, or relating to, the installation, operation, replacement, maintenance, repair and/or removal of the Rooftop Equipment.

Dated: \_\_\_\_\_, 2015

**LANDLORD:**  
JQ III Associates, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manger

**TENANT:**  
State Farm Mutual Automobile Insurance Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT J**

**APPROVED FORM OF SUBLEASE TERM SHEET**

**See Attached**



100 Jericho Quadrangle  
Jericho, NY 11753  
516-931-5300  
fax: 516-931-5885

<Date>  
<Broker>  
<Address >  
City, New York, Zip

Via E-Mail

Re: <Tenant> - Suite, 300 Jericho Quadrangle, Jericho, New York

Dear Sir:

We are pleased to propose that Tenant lease space at 300 Jericho Quadrangle under the following general terms:

**Proposal:**

**Building Ownership & Mgmt.:**

JQ III Associates, LLC. is an affiliate of The We're Group, Long Island's oldest and largest fully-integrated private real estate company specializing in office properties. The We're Group is a full service real estate company, providing leasing, management, development, construction, architectural, engineering and tenant-related services for its portfolio of 4 million square feet of commercial real estate located on Long Island, New York.

The We're Group has developed, owned and managed buildings on Long Island for over 50 years, and is well-known for its stability and financial strength, especially important in the current environment.

Lake Success Quadrangle

Jericho Quadrangle

Huntington Quadrangle

Westbury Quadrangle

Carle Place Quadrangle

**Building:**

300 Jericho Quadrangle, Jericho New York 11753

Corporate Quarters I and II

**Premises:**

Suite

Corporate Center

**Size:**

The Premises consist of 6,547 rentable square feet as measured using BOMA/ANSI standards at a 20% loss factor.

**Use:**

Executive, general, legal and administrative offices. Landlord will represent that Tenant's use as a wealth advisory office does not violate any other leases in the Building.

**Building access:**

24 hours per day, 7 days per week

**Term Commencement Date:**

October 1, 2016, provided that a Lease is executed and Tenant approves plans and specifications before September 1, 2015



100 Jericho Quadrangle  
Jericho, NY 11753  
516-931-5300  
fax. 516-931-5885

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**Lease Term:**

**Rent Concession:**

**Base Rent Per SF:** \$

**Electric:** \$.

This charge covers building HVAC and Tenant electric needs of up to five (5) watts per usable square foot, during Building Hours. The electric rate will increase by the percentage increase of the utility's rates.

**Escalations:**

**Operating Expenses:**

In lieu of any operating expense pass through, the base rent will increase by a straight 3.00% percentage over the cumulative base rent on each anniversary of the Term Commencement Date.

**Real Estate Taxes:**

Pro rata share over the tax year 2015/16 (School), 2015 (General)

**Initial Construction:**

Landlord will build-out the Demised Premises materials in accordance with a mutually agreed upon plan similar to the plan annexed hereto, using Tenant's choice of materials and specifications at Landlord's cost not to exceed \$ per rentable square foot (Landlord's Contribution).

Tenant may assign or sublease to any affiliate, without consent.

**Security Deposit:**

None

**Parking:**

Tenant will have the right to use \_\_\_ parking spaces, \_\_\_ of which will be assigned in the gated, reserved lot.

**HVAC:**

Normal HVAC will be provided to Tenant during the following hours:

8am – 6pm Monday – Friday

9am – 1pm Saturday

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Overtime HVAC will be provided on demand with five (5) hours' notice, at a rate of \$50 per hour.

Tenant may install supplemental air conditioning units to be sub-metered to Tenant, and maintenance of any such units shall be Tenant's responsibility.

**Cleaning:**

See attached Schedule B.

**Telecommunications:**

Separate fiber optic routes from the following multiple carriers:

- Lightpath (a subsidiary of Cablevision).
- Lighttower
- Cablevision
- Verizon.

**Roof:**

**Broker:**

Broker Frank shall be paid a commission under separate agreement and according to Landlord's standard terms and conditions.

Nothing contained in this proposal shall be considered binding, and no commission shall be payable, unless and until a lease is executed by both parties. We look forward to a successful conclusion of a lease. If you have any questions or comments, please do not hesitate to call me at 516-931-5300.

Very truly yours,

Harold Rechler

Encl.

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