

REVOCABLE LICENSE AGREEMENT

between

**THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
REAL ESTATE SERVICES
1 Centre Street
New York, New York 10007**

&

Premises:

For Use Through March 18, 2023

REVOCABLE LICENSE AGREEMENT

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ARTICLE 1

PREMISES

(a) Licensors shall permit Licensee to enter upon and perform the Permitted Activities (as such term is hereinafter defined) upon that portion of Block _____, Lot _____, Borough of _____, a/k/a [street, address/location] as shown in the diagram attached hereto as Exhibit A, referred to hereinafter as "the Premises."

(b) Licensee has inspected the condition of the Premises and accepts the Premises "as is" and will not at any time make any claim that the Premises or structures thereon are not in suitable repair or condition for the uses and purposes of this License, nor will Licensee at any time make any claim for or by way of reduction of charge, or otherwise, for damage arising from or consequent upon any repairs that Licensor or Licensee may do or cause to be done or in consequence of the occupation of the Premises by Licensor or its agents or contractors.

(c) Licensor has not made nor does it make any representation or warranty as to the condition of the Premises or its suitability for any particular use or as to any other matter affecting this License.

(d) The provision contained in this section that Licensee accepts the Premises "as is" relates to the condition of the Premises as they were when Licensee first entered into possession thereof, or on the commencement date of the Term, whichever is earlier.

ARTICLE 2

TERM

This License shall take effect as of _____, 20____, shall continue only at the pleasure of Licensor and shall be revocable at any time by notice in writing, but in no case shall extend beyond _____, 20____. Thereupon, all rights of Licensee in said Premises by virtue of this License

shall cease and terminate. Upon such revocation or termination, Licensee shall immediately remove its property from the Premises and restore the Premises to its condition at the commencement of this License. Any rights Licensor may have under this License and the restoration of the Premises shall survive the revocation or termination of this License.

ARTICLE 3

UNCONDITIONAL RIGHT OF REVOCATION

Licensee expressly agrees that Licensor shall have the unconditional right to revoke this License, with or without cause, and terminate the term hereof, upon twenty-four (24) hours' written notice to Licensee, any provision of this License to the contrary notwithstanding. In the event of such revocation and termination, Licensee shall remain liable for the due and full performance of all the terms, covenants and conditions of this License on the part of Licensee to be performed up to the time of such revocation and termination.

Licensee understands and agrees that nothing, including without limitation, the length of time this License has been in effect, the cost of any improvements, capital or otherwise, or any other cost, expense or liability assumed by Licensee, shall give rise to any greater rights than have been expressly granted Licensee hereunder, nor shall they affect Licensor's unconditional right of revocation. Furthermore, in the event of revocation, Licensor's sole liability to Licensee shall be to refund to Licensee, on a pro-rated basis, that portion of its current monthly License Fee paid, representing the unexpired portion of the month in which the revocation takes place.

Any and all obligations and/or liabilities of Licensee under this License shall survive the revocation or termination thereof.

ARTICLE 4

PERMITTED ACTIVITIES

Licensee shall enter upon and use the Premises only for the conduct of the following activities (hereinafter, collectively referred to as the “Permitted Activities”) and for no other purpose: _____.

Licensor makes no representation as to the legality of use of the Premises for the Licensee’s intended purposes. In the event any use or proposed use is declared illegal by a court of competent jurisdiction or governmental agency having jurisdiction, Licensee covenants and agrees that Licensor, its agents, officers, and employees, shall not be liable for any damages arising out of or related to such illegal use and that Licensee shall defend, indemnify and hold harmless Licensor against any liability or expense therefor.

Licensee shall not use the Premises for the sale of tobacco, tobacco products, or electronic cigarettes; for gambling establishments of any kind, including but not limited to, arcades, slot machines, and billiard halls; for firearms sales or repairs; for pornography sales or rentals, massage parlors, or brothels; for physical culture establishments of any kind, except for legitimate gymnasiums; or for nightclubs or cabarets.

Licensee shall carry out all Permitted Activities hereunder in accordance with all applicable laws, orders, rules, licenses, permits and regulations of all government entities having jurisdiction over same.

The sale and serving of alcoholic beverages on the Premises is permitted but is subject to compliance with all laws, orders, rules, licenses, permits and regulations of all government entities having jurisdiction over same.

ARTICLE 5

LICENSE FEE AND ADDITIONAL CHARGES

a) Licensee shall pay to Licensor a License Fee in the amount of _____ Dollars (\$) per month, or a pro rata share of same for any partial month, in advance on the first day of each calendar month during the continuance of this License. This fee is due without prior notice. In the event the term of this License is less than one month, it shall be calculated on a pro rata basis unless a License Fee specifically calculated on a per diem basis is set forth above. Payment of the License Fee may not be made by a third party unless Licensee has received Licensor's prior written consent therefor. In no instance shall payment of Licensee's License Fee by a third party create a licensor-licensee relationship between Licensor and the third party nor shall such payments affect Licensee's sole responsibility for payment of its monthly License Fee.

b) Licensee shall pay to Licensor additional charges that include, but are not limited to, reasonable attorney's fees, and any other monies paid by Licensor for service of process, marshal's fees and costs incurred in summary proceedings (hereinafter, the "Additional Charges"). Further, Licensee shall pay to Licensor as Additional Charges such other items identified in this License as Additional Charges.

c) All License Fees and Additional Charges shall be paid to Licensor at the following address:

The City of New York
Department of Citywide Administrative Services
1 Centre Street, 20th Floor North
New York, New York 10007
Attention: Executive Director
Real Estate Financial Services

ARTICLE 6

LATE CHARGES/DISHONORED CHECKS

If Licensee fails to pay any monthly Licensee Fee and/or any Additional Charge in full by the tenth (10th) day of any monthly period, Licensor, at its sole discretion, may impose a late payment charge for that monthly period equal to two percent (2%) of any fees/charges due, but not less than a minimum charge of Ten Dollars (\$10.00). Such late payment charge shall be compounded monthly and shall be collectible as an Additional Charge. Licensor's failure to immediately impose or demand a late payment charge shall not waive Licensor's right to collect it at a later date.

In the event that any payment by check is not honored the first time it is presented for payment, Licensee shall make that payment and the payments for the next ensuing six (6) months by certified or bank check unless otherwise indicated by Licensor in writing. Nothing contained herein, however, shall be deemed to prevent Licensor from holding Licensee in default under this License for the dishonor of any of Licensee's checks. Licensee must pay Licensor a fee of Twenty Dollars (\$20.00) for each dishonored check, which fee shall be collectible as an Additional Charge.

ARTICLE 7

ACCEPTANCE OF FEE AFTER EXPIRATION OF TERM

It is expressly agreed that Licensor's acceptance of any payment from Licensee for the continued use of the Premises beyond the natural expiration of the Term of this License, or the revocation of this License, shall not give rise to any landlord/tenant relationship between the parties, but rather, shall be deemed to create a day-to-day license, at the same daily License Fee rate as set forth in Article 5 above.

ARTICLE 8

NO ASSIGNMENT

This License to conduct the Permitted Activities in the Premises is for the exclusive use of Licensee and solely for the purpose hereinabove set forth and shall not be assigned either in whole or in part, or leased or sublet in any manner, nor shall any interest therein pass to any other person, firm or corporation whatsoever, either by the acts of Licensee or by operation of law, without the prior written consent of Licensor, which consent may be granted or denied by Licensor in its sole discretion.

ARTICLE 9

CONSENT TO CHANGE PREMISES; COST OF WORK, LABOR AND MATERIAL

(a) Licensee may not change, alter, add to or subtract from the Premises without the prior written consent of Licensor, which consent may be granted or denied by Licensor in its sole discretion. All additions, including, without limitation, trade fixtures, shall, at the option of Licensor, become the property of Licensor when attached to the Premises. Licensee may not attach any advertisement, notice or sign to the inside or the outside of the Premises without obtaining Licensor's prior written consent.

(b) Licensee shall pay the entire cost of all work, labor and material in connection with all activities undertaken by it at the Premises, including but not limited to:

- (i) Construction, use, maintenance and removal;
- (ii) The protection of all structures which shall in any way be disturbed by the conduct of Permitted Activities;
- (iii) All changes in sewers or other subsurface structures necessitated by the conduct of Permitted Activities, including the laying or relaying of pipes, conduits, sewers or other structures;

(iv) Replacement or restoration of the pavement in the Premises, which may have been disturbed during conduct of the Permitted Activities; and

(v) The inspection of all work during the conduct of Permitted Activities and any restoration, as herein provided, which may be required by any government entity having jurisdiction over same.

ARTICLE 10

PERMITS AND COMPLIANCE WITH LAWS

Before the conduct of any Permitted Activities hereunder shall begin, Licensee shall obtain all permits which may be required by any government entity having jurisdiction over same. Licensee shall perform all the duties that may be imposed by such government entity as a condition of such permits, provided such conditions are not inconsistent with the provisions of this License. Licensee shall submit to such entity working plans which shall include and show in detail the method of construction of the structures hereby authorized and the mode of protection or changes in all structures required by the construction or removal of the same.

Upon the completion of the work, Licensee shall furnish to such entity plans of such character as may be directed, showing accurately and distinctly the location, size and type of construction, and complete dimensions of any structure erected or installed pursuant to this License.

Licensee shall comply with all applicable laws, rules, regulations and orders of any government entity having jurisdiction over the use, occupancy and maintenance of the Premises, and with such other rules, regulations, orders, terms and conditions as may be set or required by Licensor.

ARTICLE 11

INSURANCE

Section 1.01 Licensee’s Obligation to Insure

A. From the date this License is executed through the date that Licensor is in possession of the Premises, including through or beyond the date of the expiration, termination, or revocation of License, Licensee shall ensure that the types of insurance indicated in this Article are obtained and remain in force, and that such insurance adheres to all requirements herein.

B. Licensee is authorized to undertake or maintain operations under this License only during the effective period of all required coverage.

Section 1.02 Commercial General Liability Insurance

A. Licensee shall maintain Commercial General Liability insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence. *[AGENCY: Increase if/as needed to reflect higher risk.]* In the event such insurance contains an aggregate limit, the aggregate shall apply on a per-location basis applicable to the Premises and such per-location aggregate shall be at least Two Million Dollars (\$2,000,000). *[AGENCY: Increase limits if/as needed to reflect higher risk. Where Licensee is a small company, the language “shall apply on a per-location basis applicable to the Premises and such per-location aggregate” may be deleted if the aggregate limit is raised to five million dollars (\$5,000,000) or more.]* This insurance shall protect the insureds from claims for property damage and/or bodily injury, including death, that may arise from any of the operations under this License. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 0001, shall contain no exclusions other than as required by law or as approved by Licensor, and shall be "occurrence" based rather than "claims-made." *[AGENCY: Add the following sentence if land or building/structure on the Premises has asbestos, lead or other toxic substance that may be emitted: “Policies providing such insurance may not include any endorsements excluding coverage relating to the emission of asbestos, lead, mold, or pollutants.”]*

B. Such Commercial General Liability insurance shall name the City, together with its officials and employees, as an Additional Insured for claims that may arise from any of the operations under this License. Coverage shall be at least as broad as the most recent edition of ISO Form CG 2026. “Blanket” or other forms are also acceptable if they provide the City, together with its officials and employees, with coverage at least as broad as ISO Form CG 2026.

Section 1.03 Workers’ Compensation, Employers Liability, and Disability Benefits Insurance

Licensee shall maintain Workers’ Compensation insurance, Employers Liability insurance, and Disability Benefits insurance on behalf of, or with regard to, all employees involved in Licensee’s operations under this License, and such insurance shall comply with the laws of the State of New York.

Section 1.04 United States Longshore and Harbor Workers' Compensation Act and/or Jones Act Insurance [AGENCY: DELETE SECTION IF LICENSE DOES NOT INVOLVE WORK ON, NEAR OR OVER NAVIGABLE WATERS]

With regard to all operations on, near or over navigable waters under this License, Licensee shall maintain or cause to be maintained insurance in accordance with the United States Longshore and Harbor Workers' Compensation Act and/or the Jones Act on behalf of all qualifying employees involved in such operations.

Section 1.05 Commercial Automobile Liability Insurance

A. With regard to all operations under this License, Licensee shall maintain or cause to be maintained Commercial Automobile Liability insurance in the amount of at least One Million Dollars (\$1,000,000) each accident (combined single limit) for liability arising out of the ownership, maintenance or use of any owned, non-owned or hired vehicles. Coverage shall be at least as broad as the latest edition of ISO Form CA0001.

B. If vehicles are used for transporting hazardous materials, such Commercial Liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

Section 1.06 Property Insurance [AGENCY: DELETE SECTION IF THERE IS NO BUILDING OR STRUCTURE WORTH MORE THAN \$250,000 ON THE PREMISES AND YOU DO NOT ANTICIPATE ANY BEING BUILT DURING LICENSE]

A. Licensee shall maintain comprehensive broad-form property insurance (such as an "All Risk" policy) covering all buildings, structures, equipment and fixtures on the Premises ("License Structures"), whether existing at the beginning of this License or built at any time before its expiration or termination. Such insurance shall provide full Replacement Cost coverage for the License Structures (without depreciation or obsolescence clause) and include, without limitation, coverage for loss or damage by acts of terrorism, water (other than flood-related), wind, subsidence and earthquake. Such insurance shall be "occurrence" (rather than "claims-made") based and shall designate Licensee as Named Insured and the City as Additional Insured and Loss Payee as its interests may appear.

B. This Section does not require coverage for damage caused by flooding.

C. The limit of such property insurance shall be no less than the full Replacement Cost of all License Structures, including, without limitation, the costs of post-casualty debris removal and soft costs, to the extent that such costs can be covered by an "all risk" or "special perils form" insurance policy. If such insurance contains an aggregate limit, it shall apply separately to the License Structures.

D. In the event of any loss to any of the License Structures, the Licensee shall provide the insurance company that issued such property insurance with prompt, complete and timely notice, and simultaneously provide the Licensor with a copy of such notice. With regard to any License Structure that the City owns or in which the City has an interest, the Licensee shall also (i) take all appropriate actions in a timely manner to adjust such claim on terms that provide the City with the maximum possible payment for the loss, and (ii) either provide the City

with the opportunity to participate in any negotiations with the insurer regarding adjustments for claims or, at the Licensor's discretion, allow the City itself to adjust such claim.

Section 1.07 Flood Insurance. [AGENCY: INCLUDE THIS SECTION IF THERE IS A BUILDING ON THE LICENSED PROPERTY AND EITHER (A) SUCH BUILDING IS IN A FEMA SPECIAL FLOOD HAZARD AREA OR (B) THE CITY HAS RECEIVED ASSISTANCE FROM FEMA FOLLOWING FLOODING CAUSED BY A HURRICANE OR SUPERSTORM. THIS IS AN IMPORTANT AND COMPLICATED ISSUE; ACCORDINGLY, IF YOU HAVE ANY QUESTIONS, CONTACT YOUR GENERAL COUNSEL OR THE CORPORATION COUNSEL'S OFFICE FOR GUIDANCE.]

A. Licensee shall maintain flood insurance through the National Flood Insurance Program (NFIP) for each building on the Premises. Each building shall be insured separately. For each building, the Licensee shall maintain the maximum limits available under the NFIP for both the building and its contents. (As of 2014, this was \$500,000 per building and \$500,000 for its contents, up to the actual cost value of the insured property.) The Licensee shall assure that the City is listed as a loss payee on the NFIP insurance.

B. In the event the Licensee purchases flood insurance excess to the limits available under the NFIP, the Licensee shall assure that the City is listed as a loss payee under all such policies.

Section 1.08 Pollution Insurance [AGENCY: DELETE SECTION IF OPERATIONS AT THE PREMISES WILL NOT INVOLVE PETROLEUM PRODUCTS, ASBESTOS, LEAD, PCBS OR ANY OTHER HAZARDOUS MATERIALS]

A. Pollution Legal Liability Insurance.

1. Licensee shall maintain Pollution Legal Liability Insurance covering bodily injury, property damage, clean-up costs/remediation expenses and legal defense costs for new pollution conditions both on and off-site. If Licensee's operations include loading, unloading or transportation of any waste or hazardous materials to or from the Premises, this insurance shall expressly include such activities and any non-owned facilities/sites utilized for the disposal of wastes or hazardous materials transported from the Premises. If the Premises contains any underground storage tank(s), this insurance shall expressly include such tanks.

2. This insurance shall have a limit of at least _____ Million Dollars (\$_,000,000) [AGENCY: Fill in numbers in accordance with risk.], and provide coverage for Licensee as Named Insured and the City, together with its officials and employees, as Additional Insured. Coverage for the City shall be at least as broad as Licensee's. This insurance shall have a retroactive date on or before the effective date of this License, and continuous coverage shall be maintained, or an extended discovery period exercised, for a period of not less than three years after the expiration or termination of this License.

B. Contractors Pollution Liability Insurance.

1. In the event Licensee enters into a contract with another that involves abatement, removal, repair, replacement, enclosure, encapsulation and/or delivery, receipt, or

disposal of any petroleum products, asbestos, lead, PCBs or any other hazardous materials or substances, Licensee shall maintain, or cause the contractor to maintain, Contractors Pollution Liability Insurance covering bodily injury, property damage, clean up costs/remediation expenses and legal defense costs. Such insurance shall provide coverage for sudden and non-sudden pollution conditions arising out of the contractor's operations at the Premises.

2. If required, the Contractors Pollution Liability Insurance shall each have a limit of at least _____ Million Dollars (\$__,000,000) [AGENCY: Fill in numbers in accordance with risk.], and provide coverage for Licensee as Named Insured or Additional Insured and the City, together with its officials and employees, as Additional Insured. Coverage for the City shall be at least as broad as the Licensee's. If this insurance is issued on a claims-made basis, such policy or policies shall have a retroactive date on or before the beginning of the contractor's work, and continuous coverage shall be maintained, or an extended discovery period exercised, for a period of not less than three years after the termination of such work.

Section 1.09 Marine Insurance [AGENCY: DELETE SECTION IF NO MARINE OPERATIONS UNDER LICENSE]

A. Marine Protection and Indemnity Insurance. With regard to all marine vessels involved in operations under this License, the Licensee shall maintain or cause to be maintained Marine Protection and Indemnity insurance with coverage at least as broad as policy form SP-23. Coverage shall include bodily injury and property damage arising from marine operations under this License, including injury or death of crew members (if not fully provided through other insurance), damage to piers, wharves and other fixed or movable structures and loss of or damage to any other vessel or craft, or to property on such other vessel or craft, not caused by collision. Such insurance shall name the City, including its officials and employees, as Additional Insured and have a limit of at least ___ Million Dollars (\$__,000,000) per occurrence. [AGENCY: Fill in numbers in accordance with risk]

B. Marina Operators Legal Liability Insurance. [AGENCY: Delete paragraph if License does not involve a marina.] Licensee shall maintain Marina Operators Legal Liability Insurance covering liabilities associated with the operation of the marina involved in this License. Such insurance shall name the City, including its officials and employees, as Additional Insured, and have a limit of at least ___ Million Dollars (\$__,000,000) per occurrence. [AGENCY: Fill in number in accordance with risk.]

C. Marine Pollution Liability Insurance. [AGENCY: Delete paragraph if pollution not an issue under License.] With regard to all marine vessels involved in operations under this License, Licensee shall maintain or cause to be maintained Marine Pollution Liability insurance for liability arising from the discharge or substantial threat of a discharge of oil, or from the release or threatened release of a hazardous substance including injury to, or economic losses resulting from, the destruction of or damage to real property, personal property or natural resources. Coverage shall be at least as broad as that provided by the most recent Water Quality Insurance Syndicate Form. Such insurance shall name the City, including its officials and employees, as Additional Insured, and have a limit of at least ___ Million Dollars (\$__,000,000) per occurrence. [AGENCY: Fill in numbers in accordance with risk]

D. Hull and Machinery Insurance. *[AGENCY: Delete paragraph if no tug boats involved in operations under license.]* In the event any tug boats are involved in the operations under this License, Licensee shall maintain or cause to be maintained Hull and Machinery Insurance with coverage at least as broad as the most recent edition of the American Institute Tug Form and Collision Liability at least as broad as the latest edition of the American Institute Hull Clauses. Such insurance shall name the City, including its officials and employees, as Additional Insured, and have a limit of at least ___ Million Dollars (\$___,000,000) per occurrence and ___ Million Dollars (\$___,000,000) aggregate. *[AGENCY: Fill in numbers in accordance with risk]*

Section 1.10 Liquor Law Liability Insurance *[AGENCY: DELETE ENTIRE SECTION IF NO ALCOHOL TO BE SERVED ON PREMISES]*

In the event Licensee or any sub-licensee or contractor shall serve alcohol on the Licensed Premises, Licensee shall carry or cause to be carried liquor law liability insurance in an amount not less than Five Million Dollars (\$5,000,000) per occurrence *[AGENCY: You may decrease to \$2M if such service is incidental (e.g., only to small numbers of people occasionally). Increase to \$10M or even \$25M if alcohol to be served to large groups, especially where there may be excessive drinking (e.g., rock concerts) or many attendees may drive home.]*, and name the City as additional insured. Such insurance shall be effective prior to the commencement of any such service of alcohol and continue throughout such operations.

Section 1.11 General Requirements for Insurance Coverage and Policies

A. Policies of insurance required under this Article shall be provided by companies that may lawfully issue such policy and have an A.M. Best rating of at least A- / “VII” or a Standard and Poor’s rating of at least A, unless prior written approval is obtained from Licensor.

B. Policies of insurance required under this Article shall be primary and non-contributing to any insurance or self-insurance maintained by the City.

C. Wherever this Article requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that Licensee can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

D. There shall be no self-insurance program with regard to any insurance required under this Article unless approved in writing by Licensor. Under no circumstances shall the City be responsible for the payment of any self-insured retention (or any other aspect of a self-insurance program). Further, Licensee shall ensure that any such self-insurance program provides the City with all rights that would be provided by traditional insurance under this Article, including but not limited the defense and indemnification obligations that insurers are required to undertake in liability policies.

E. The City’s limits of coverage for all types of insurance required under this Article shall be the greater of (i) the minimum limits set forth in this Article or (ii) the limits provided to Licensee under all primary, excess and umbrella policies covering operations under this License.

F. All required policies, except for Workers' Compensation insurance, Employers Liability insurance, Disability Benefits insurance, and United States Longshore and Harbor Workers' Compensation Act and/or the Jones Act insurance, shall contain an endorsement requiring that the issuing insurance company endeavor to provide the City with advance written notice in the event such policy is to expire or be cancelled or terminated for any reason, and to mail such notice to both the Licensor at the Municipal Building, 1 Centre Street, 20th Floor, New York, New York 10007 and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, 1 Centre Street, Room 1005, New York, New York 10007. Such notice is to be sent at least (30) days before the expiration, cancellation or termination date, except in cases of non-payment, where at least ten (10) days written notice would be provided.

G. All required policies, except Workers' Compensation, Employers Liability, Disability Benefits, and United States Longshore and Harbor Workers' Compensation Act and/or the Jones Act insurance, shall include a waiver of the right of subrogation with respect to all insureds and loss payees named therein.

Section 1.12 Proof of Insurance

A. Certificates of Insurance, "Additional Insured" endorsements and Certification of Insurance Broker or Agent for all insurance required in this Article must be submitted to and accepted by Licensor prior to or upon execution of this License.

B. For Workers' Compensation, Employers Liability Insurance, Disability Benefits, and United States Longshore and Harbor Workers' Compensation Act and/or Jones Act insurance policies, the Licensee shall submit one of the following:

1. C-105.2 Certificate of Workers' Compensation Insurance;
2. U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance;
3. Request for WC/DB Exemption (Form CE-200);
4. Equivalent or successor forms used by the New York State Workers' Compensation Board; or
5. Other proof of insurance in a form acceptable to the City. ACORD forms are not acceptable proof of workers' compensation coverage.

C. For all insurance required under this Article other than Workers' Compensation, Employers Liability, Disability Benefits and United States Longshore and Harbor Workers' Compensation Act and/or Jones Act insurance, Licensee shall submit one or more Certificates of Insurance in a form acceptable to Licensor. All such Certificates of Insurance shall (a) certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) be accompanied by the provision(s) or endorsement(s) in the Licensee's policy/ies (including its general liability policy) by which the City has been made an additional insured or loss payee, as required herein. All such Certificates of Insurance shall be accompanied by either a duly executed "Certification by Insurance Broker or Agent" in the form (Exhibit B) required by

the Licensor or certified copies of all policies referenced in such Certificate of Insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

D. Certificates of Insurance and Certification of Insurance Broker or Agent confirming renewals of insurance shall be submitted to the Licensor prior to the expiration date of coverage of all policies required under this License. Such Certificates of Insurance documents shall comply with subsections (A) and (B), and (C) directly above.

E. Acceptance or approval by Licensor of a Policy or Certificate of Insurance or any other ~~matter~~ document does not waive Licensee's obligation to ensure that insurance fully consistent with the requirements of this Article is secured and maintained, nor does it waive Licensee's liability for its failure to do so.

F. Licensee shall be obligated to provide the City with a copy of any policy of insurance required under this Article upon request by Licensor or the New York City Law Department.

Section 1.13 Miscellaneous

A. Licensee may satisfy its insurance obligations under this Article through primary policies or a combination of primary and excess/umbrella policies, so long as all policies provide the scope of coverage required herein.

B. Licensee shall be solely responsible for the payment of all premiums for all policies and all deductibles or self-insured retentions to which they are subject, whether or not the City is an insured under the policy.

C. Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Article, the Licensee shall notify in writing all insurance carriers that issued potentially responsive policies of any such event relating to any operations under this License (including notice to Commercial General Liability insurance carriers for events relating to the Licensee's own employees) no later than 20 days after such event. For any policy where the City is an Additional Insured, such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Insured as well as the Named Insured." Such notice shall also contain the following information: the number of the insurance policy, the name of the named insured, the date and location of the damage, occurrence, or accident, and the identity of the persons or things injured, damaged or lost. The Licensee shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007.

D. Licensee's failure to secure and maintain insurance in complete conformity with this Article, or to give the insurance carrier timely notice on behalf of the City, or to do anything else required by this Article shall constitute a material breach of this License. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

E. Insurance coverage in the minimum amounts provided for in this Article shall not relieve Licensee of any liability under this License, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this License or the law.

F. In the event of any loss, accident, claim, action, or other event that does or can give rise to a claim under any insurance policy required under this Article, Licensee shall at all times fully cooperate with the City with regard to such potential or actual claim.

G. Apart from damages or losses covered by Workers' Compensation Insurance, Employers Liability Insurance, Disability Benefits Insurance, United States Longshore and Harbor Workers' Compensation Act and/or the Jones Act Insurance, or Commercial Automobile Insurance, Licensee waives all rights against the City, including its officials and employees, for any damages or losses that are covered under any insurance required under this Article (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of Licensee and/or its employees, agents, or servants of its contractors or subcontractors.

H. In the event Licensee requires any entity, by contract or otherwise, to procure insurance with regard to any operations under this License and requires such entity to name the Licensee as an additional insured under such insurance, Licensee shall ensure that such entity also name the City, including its officials and employees, as an additional insured with coverage at least as broad as ISO form CG 20 26.

I. In the event Licensee receives notice from an insurance company or other person that any insurance policy required under this Article shall expire or be cancelled or terminated (or has expired or been cancelled or terminated) for any reason, Licensee shall immediately forward a copy of such notice to both the Licensor and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, 1 Centre Street, Rm. 1005, New York, New York 10007. Notwithstanding the foregoing, Licensee shall ensure that there is no interruption in any of the insurance coverage required under this Article. If Licensee is remiss in timely procuring or renewing its insurance, Licensor, at its option, reserves the right to terminate this License.

ARTICLE 12

RESPONSIBILITY FOR SAFETY, INJURIES OR DAMAGE,

AND INDEMNIFICATION

Section 1.01 Licensee Responsibilities

A. Licensee shall be solely responsible for the safety and protection of its employees, agents, servants, contractors, and subcontractors, and for the safety and protection of the employees, agents, or servants of its contractors or subcontractors.

B. Licensee shall be solely responsible for taking all reasonable precautions to protect the persons and property of the City or others from damage, loss or injury resulting from any and all operations under this License.

C. Licensee shall be solely responsible for injuries to any and all persons, including death, and damage to any and all property arising out of or related to the operations under this License, whether or not due to the negligence of the Licensee, including but not limited to injuries or damages resulting from the acts or omissions of any of its employees, agents, servants, contractors, subcontractors, or any other person.

D. Licensee shall use the Premises in compliance with, and shall not cause or permit the Premises to be used, in violation of any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adapted in the future which are or become applicable to the Licensee or the Premises (collectively “Environmental Laws”). Except as may be agreed by the City as part of this License, Licensee shall not cause, permit or allow any of Licensee’s personnel to cause or permit any Hazardous Materials to be brought upon, stored, used, generated, treated or disposed of on the Premises. As used herein, “Hazardous Materials” means any chemical, substance or material which is now or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

E. Licensee’s obligations under this Article shall survive the revocation or termination of this License.

Section 1.02 Indemnification and Related Obligations

A. To the fullest extent permitted by law, Licensee shall indemnify, defend and hold the City and its officials and employees harmless against any and all claims, liens, demands, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, attorneys' fees and disbursements) arising out of or related to any of the operations under this License (regardless of whether or not Licensee itself had been negligent) and/or the Licensee’s failure to comply with the law or any of the requirements of this License. Insofar as the facts or law relating to any of the foregoing would preclude the City or its officials and employees from being completely indemnified by Licensee, the City and its officials and employees shall be partially indemnified by Licensee to the fullest extent permitted by law.

B. Licensee’s obligation to defend, indemnify and hold the City and its officers and employees harmless shall not be (i) limited in any way by Licensee’s obligations to obtain and maintain insurance under this License, nor (ii) adversely affected by any failure on the part of the City or its officers and employees to avail themselves of the benefits of such insurance.

ARTICLE 13

SECURITY DEPOSIT

Upon execution hereof, Licensee shall deposit with the Comptroller of The City of New York the sum of Dollars (\$), which sum shall be security for (a) the faithful performance of all obligations imposed upon Licensee hereunder and (b) the payment of all the sums of money (including taxes) which may be due the City because of the conduct of any activities herein authorized or any restoration as herein provided.

In the event that Licensee fully and completely performs all such obligations and timely makes all such payments, Licensor shall cause said sum to be returned to Licensee, without interest, promptly thereafter.

In the event that Licensee shall default in the performance of any such obligation or the making of any such payment, Licensor may apply the sum so deposited to the cost of performing such obligation or making of such payment on Licensee's behalf. Licensee's liability for such default shall in no event be limited to the amount of such security deposit and Licensee shall be and remain liable for any deficiency.

ARTICLE 14

TERMINATION OF LICENSE

(a) Upon the revocation or termination of this License, Licensee, at its sole cost and expense, shall cause the Premises to be restored to its proper and original condition.

(b) Licensor, upon reasonable notice to Licensee, may inspect the Premises to confirm that it has been satisfactorily restored to its original condition. If, in Licensor's sole opinion, the Premises have not been satisfactorily restored, Licensor may complete restoration of the Premises and assess Licensee any costs it thereby incurs that exceed the existing balance of the

Security Deposit, which Licensee shall pay promptly upon written demand by Licensor.

(c) The terms of this Article shall survive revocation or termination of this License.

ARTICLE 15

INVESTIGATIONS

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

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

15.2(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the

attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then:

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

15.3(b) If any nongovernmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph 15.5 below without the City incurring any penalty or damages for delay or otherwise.

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

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

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

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

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

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

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

(d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under 15.4 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in 15.3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

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

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

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

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

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

ARTICLE 16

NO DISCRIMINATION

(a) Licensee shall not unlawfully discriminate against any customer because of actual or perceived age, race, creed, religion, sex, gender, color, disability, sexual preference or orientation, national origin, alienage, citizenship status, partnership status, marital status, military status, presence of a service animal or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations.

(b) Licensee shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, race, creed, religion, religious practice, sex, gender, color, disability, sexual preference or orientation, national origin, alienage, citizenship

status, partnership status, marital status, pregnancy, childbirth or condition relating to pregnancy or childbirth, political beliefs or affiliations, arrest or conviction record, military status, predisposing genetic characteristics, unemployment status, status as a victim of domestic violence, stalking, and sex offenses, presence of a service animal, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. All advertising for employment shall indicate that Licensee is an Equal Opportunity Employer.

ARTICLE 17

NO CONFLICT OF INTEREST

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

ARTICLE 18

OTHER AGREEMENTS

It is understood that all other agreements between the parties with respect to this License shall be superseded by this License and any obligations between the parties shall be determined solely by this License until such time as this License is superseded by another agreement.

ARTICLE 19

NOTICES

Except as otherwise in this License specifically provided, a notice or communication which either party is required to give to the other shall be in writing by personal delivery or by overnight mail or by registered or certified mail, return receipt requested, addressed to the other at the address set forth below or to such other address as either party may from time to time

direct by written notice given in the manner herein prescribed. Such notice or communication shall be deemed to be received as follows: if by personal delivery upon receipt if by overnight mail the next day following the date of mailing, or if by registered or certified mail the third day following such mailing.

To Licensor:

Assistant Commissioner of Planning, Dispositions & Property Inspections
New York City Department of Citywide Administrative Services
Real Estate Services
1 Centre Street, 20th Floor, South
New York, NY 10007

To Licensee:

ARTICLE 20

WARRANTY

The undersigned signatory for Licensee personally warrants and represents that he/she has full power and authority to enter into this Agreement on behalf of Licensee and to bind Licensee to its terms.

ARTICLE 21

JURY WAIVER; WAIVER OF COUNTERCLAIM

To the fullest extent permitted by law, Licensee waives its right to a jury trial in any action or summary proceeding to recover possession of the Premises and also waives its right to counterclaim or set-off therein, which waivers shall survive the revocation or termination of this License.

ARTICLE 22

ADDITIONAL REQUIREMENTS UPON LICENSEE

Licensee, at its sole cost and expense, shall keep the Premises free from deposits of refuse, debris, garbage, waste and all other objectionable materials, shall keep the Premises in good and sufficient repair and condition, and shall maintain the Premises in a safe and secure manner.

ARTICLE 23

POSSESSION

In the event Licensor acknowledges in writing that it is unable to give access to and/or use of the Premises on the date set forth in Article 2 herein, the License Fee shall not commence until such access to/use of the Premises has been given or is available, as determined by Licensor. Under such circumstances, Licensor shall not be subject to any liability for failure to give access to/use of the Premises on such date(s) and the validity of this License shall not be impaired. Notwithstanding any inability on the part of Licensor to provide access to/use of the Premises, in no event shall Licensor be obligated to extend the Term.

ARTICLE 24

SURVIVAL

In addition to the provisions of this License that specifically survive revocation or termination of this License, any provisions of this License which, by their nature, would survive revocation or termination shall be deemed to do so.

NOTE: THE NEXT PAGES ARE THE SIGNATURE AND ACKNOWLEDGMENT PAGES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date hereinabove set forth.

LICENSOR:

THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE
ADMINISTRATIVE SERVICES
REAL ESTATE SERVICES

By: _____

Deputy Commissioner

LICENSEE:

By: _____ (Signature)
_____ (Print Name)
_____ (Title, If any)

Approval as to form by Standard Type of Class to
3/18/2023

Isabel Galis-Mendez LZ
Acting Corporation Counsel, NYC Law Dept.

March 18, 2022

Exhibit "A"

Diagram of Premises

ALL MEASUREMENTS ARE APPROXIMATE AND NOT DRAWN TO SCALE

Exhibit "B"

Certificate(s) of Insurance and Certification of Broker or Agent