

# Human Services Meeting Agenda



Committee Chair: Nancy Barr

800 Michaelian Office Bldg.  
148 Martine Avenue, 8th Floor  
White Plains, NY 10601  
[www.westchesterlegislators.com](http://www.westchesterlegislators.com)

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**Wednesday, October 16, 2024**

**10:00 AM**

**Committee Room**

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**Joint with B&A**

## CALL TO ORDER

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

## MINUTES APPROVAL

### I. ITEMS FOR DISCUSSION

[2024-509](#)

**IMA-Water Testing Services-City of New York**

AN ACT to authorize an intermunicipal agreement with the City of New York pursuant to which Westchester County, through its Department of Laboratories and Research, will provide water testing services for the City.

**COMMITTEE REFERRAL: COMMITTEES ON BUDGET & APPROPRIATIONS AND HUMAN SERVICES**

Guests:

Department of Labs & Research  
Dr. Aleksander Milovanovic  
Chief Administrator Keith Hoffman

[2024-544](#)      **PH-Enter into Lease Agreement-MG MARTINE SPE LLC-11 Martine Avenue, White Plains**

A RESOLUTION to set a Public Hearing on "A LOCAL LAW authorizing the County of Westchester to enter into a lease agreement with MG MARTINE SPE LLC, or the owner of record, for approximately 57,266 square feet of space comprised of the contiguous 12th, 14th and 15th floors in the building located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space, along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations allocated for use by County employees and invitees, for use by the Department of Health". [Public Hearing set for \_\_\_\_\_, 2024 at \_\_\_\_\_ .m.]. LOCAL LAW INTRO: 2024-545.

**COMMITTEE REFERRAL: COMMITTEE ON BUDGET & APPROPRIATIONS AND HUMAN SERVICES**

Guests:

Department of Health  
Commissioner, Dr. Sherlita Amler  
Deputy Commissioner Renee Recchia

Senior Assistant County Attorney Carla Chaves

Director of Countywide Administrative Services Chris Steers

[2024-545](#)      **LOCAL LAW-Enter into Lease Agreement-MG MARTINE SPE LLC-11 Martine Avenue, White Plains**

A LOCAL LAW authorizing the County of Westchester to enter into a lease agreement with MG MARTINE SPE LLC, or the owner of record, for approximately 57,266 square feet of space comprised of the contiguous 12th, 14th and 15th floors in the building located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space, along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations allocated for use by County employees and invitees, for use by the Department of Health.

**COMMITTEE REFERRAL: COMMITTEE ON BUDGET & APPROPRIATIONS & HUMAN SERVICES**

Guests:

Department of Health  
Commissioner, Dr. Sherlita Amler  
Deputy Commissioner Renee Recchia

Senior Assistant County Attorney Carla Chaves

Director of Countywide Administrative Services Chris Steers



**II. OTHER BUSINESS**

**III. RECEIVE & FILE**

**ADJOURNMENT**



George Latimer  
County Executive

September 20, 2024

Westchester County Board of Legislators  
800 Michaelian Office Building  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith is a proposed Act which would authorize the County of Westchester (the "County") to enter into an intermunicipal agreement (the "IMA") with the City of New York, acting by and through its New York City Department of Health and Mental Hygiene (the "City") pursuant to which the County, through its Department of Laboratories and Research (the "Department"), will provide water testing services on water samples provided by the City.

The City has asked the Department for assistance in performing these services as the Department has an accredited laboratory that has the requisite skills and capability to perform these services. The term of the IMA will be for a period of five years. In consideration for these services, the City will pay the County an aggregate fee not to exceed \$158,100.00, to be billed at the Department's current fee schedule.

Under terms of the IMA prepared by the City, the County as the City's contractor, will provide the following indemnification: "To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the City or its officials or employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law."

Office of the County Executive

Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601

Email: [CE@westchestergov.com](mailto:CE@westchestergov.com)  
Telephone: (914) 995-2900

[westchestergov.com](http://westchestergov.com)

As the County is able to provide the services requested by the City necessary to maintain the City water supply distribution system, I respectfully recommend approval of the attached Act.

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written over a horizontal line.

George Latimer  
County Executive

Attachments

**HONORABLE BOARD OF LEGISLATORS  
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive that proposes an Act which would authorize the County of Westchester (the "County") to enter into an intermunicipal agreement (the "IMA") with the City of New York, acting by and through its New York City Department of Health and Mental Hygiene (the "City") pursuant to which the County, through its Department of Laboratories and Research (the "Department"), will provide water testing services on water samples provided by the City.

The City has asked the Department for assistance in performing these services as the Department has an accredited laboratory that has the requisite skills and capability to perform these services. The term of the IMA will be for a period of five years. In consideration for these services, the City will pay the County an aggregate fee not to exceed \$158,100.00, to be billed at the Department's current fee schedule.

Under terms of the IMA prepared by the City, the County as the City's contractor, will provide the following indemnification: "To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the City or its officials or employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law."

The County Planning Department has advised that that based on its review, the above project is a "Type II" action under the State Environmental Quality Review Act, 6 NYCRR Part 617.5(c)(20). Type II actions are those actions determined not to have a significant effect on the

environment and therefore do not require further environmental review. Your Committee concurs with this conclusion.

Your Committee believes that this IMA is in the best interest of the County, while also assisting the City to maintain the City's water distribution system, and therefore, recommends your favorable action on the annexed proposed legislation. An affirmative vote of a majority of the voting strength of your Honorable Board is required to adopt the attached Act.

Dated: \_\_\_\_\_, 2024  
White Plains, New York

COMMITTEE ON

C: DLV 9-17-24

## FISCAL IMPACT STATEMENT

**SUBJECT: NYC DOH/MH IMA**

**NO FISCAL IMPACT PROJECTED**

### OPERATING BUDGET IMPACT

**To Be Completed by Submitting Department and Reviewed by Budget**

**SECTION A - FUND**

<b>X</b>	<b>GENERAL FUND</b>
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## ☐ AIRPORT FUND

<input type="checkbox"/>	SPECIAL DISTRICTS FUND
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## SECTION B - EXPENSES AND REVENUES

<b>Total Current Year Expense</b>	<b>\$</b>	<b>-</b>
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<b>Total Current Year Revenue</b>	<b>\$</b>	<b>10,540</b>
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**Source of Funds (check one):** ☒ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations ☐ Other (explain)

**Identify Accounts:** 101-31-0010-4100-9067

[illegible]

**Describe:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Potential Related Operating Budget Revenues:	Annual Amount
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**Describe:** \_\_\_\_\_

**Anticipated Savings to County and/or Impact on Department Operations:**

**Current Year:** \_\_\_\_\_

**Next Four Years:** 2025: Revenue \$31,620 ; 2026: Revenue \$31,620 ; 2027: Revenue \$31,620

2028: Revenue \$31,620 ; 2029: Revenue \$21,080.

**Prepared by:** Michael Dunn

**Title:** Senior Budget Analyst

**Department:** Budget

**Date:** September 17, 2024

Reviewed By: Xavier De

**Budget Director**

Date: 9/18/24

TO: David Vutera, Associate County Attorney  
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM  
Assistant Commissioner



DATE: September 18, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR:  
NEW YORK CITY WATER TESTING**

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**PROJECT/ACTION:** A five-year agreement with the City of New York, whereby the County of Westchester, acting by and through its Department of Laboratories and Research, will provide water testing services on water samples provided by the City.

**With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no environmental review is required because the project/action may be classified as a TYPE II action pursuant to section(s):**

- **617.5(c)(26):** routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment.

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**COMMENTS:** None.

DSK/cnm

cc: Andrew Ferris, Chief of Staff  
Paula Friedman, Assistant to the County Executive  
Tami Altschiller, Assistant Chief Deputy County Attorney  
Claudia Maxwell, Principal Environmental Planner

## **ACT NO. 2024 -**

**AN ACT** to authorize an intermunicipal agreement with the City of New York pursuant to which Westchester County, through its Department of Laboratories and Research, will provide water testing services for the City.

**BE IT ENACTED** by the Board of Legislators of the County of Westchester, State of New York, as follows:

**Section 1.** The County of Westchester (the “County”) is hereby authorized to enter into an intermunicipal agreement (“IMA”) with the City of New York, acting by and through its New York City Department of Health and Mental Hygiene (the “City”) pursuant to which the County, through its Department of Laboratories and Research (the “Department”), will provide water testing services on water samples provided by the City.

**§2.** In consideration for services rendered, the City shall pay the County an aggregate fee not to exceed \$158,100.00, to be billed at the Department’s current fee schedule.

**§3.** The term of the IMA shall be for a period of five years.

**§4.** Under terms of the IMA prepared by the City, the County as the City’s contractor, shall provide the following indemnification: “To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the City or its officials or



employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.”

§5. The County Executive or his authorized designee is further authorized to execute and deliver all documents as are necessary and appropriate to carry out the purposes of this Act.

§6. This Act shall take effect immediately.

**AGREEMENT**  
**BETWEEN**  
**THE CITY OF NEW YORK ACTING BY**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**And**  
**WESTCHESTER COUNTY**

**Pin: 24ET041201R0X00**

**AGREEMENT** dated as of March 1, 2024 between the CITY OF NEW YORK ("CITY") acting by and through its Department of Health and Mental Hygiene having its principal office located at Gotham Center, 42-09 28<sup>th</sup> Street, Long Island City, New York 11101 ("Department" or "DOHMH"), and Westchester County ("Contractor"), having its principal office located at 148 Martine Avenue, White Plains, New York 10601.

**W I T N E S S E T H**

**WHEREAS**, the New York City Department of Health and Mental Hygiene ("DOHMH" or "Department") is charged with the authority to supervise and regulate the public health aspects of the NYC water supply; and

**WHEREAS**, as part of the Department's efforts to regulate the NYC water supply, the Department's Office of Public Health Engineering ("PHE") routinely takes samples of the NYC drinking water to be analyzed for metals, nitrates, volatile organic chemicals and trihalomethanes by a laboratory that is accredited by the New York State Environmental Laboratory Approval Program; and

**WHEREAS**, Westchester County's Department of Laboratories and Research, a NYS ELAP accredited laboratory, has the requisite skills and capability to perform drinking water analysis; and

**WHEREAS**, Westchester County is ready, willing and able of providing the services described herein.

**NOW, THEREFORE**, in consideration of the mutual promises herein set forth, the parties agree as follows:

**I. TERM, RENEWALS and BUDGET MODIFICATIONS**

- A. The term of this Agreement shall be from March 1, 2024 through February 28, 2029.
- B. To further the purpose of this Agreement, the Contractor may request a budget modification in writing to the Department provided that it is submitted to the Department

no later than three (3) months prior to the expiration of the applicable budget period, and further provided that the written approval of the Department is received prior to any line item being overexpended. However, the Department, at its sole discretion may agree to a budget modification at any time. In no case shall a budget modification request increase the Maximum Reimbursable Amount of the contract. This provision shall survive the expiration of this Agreement.

## II. SCOPE OF SERVICES

The Contractor shall provide services in the manner and at the levels set forth in the Scope of Services, annexed hereto and incorporated herein as Annex A.

## III. FINANCIAL PROVISIONS:

### A. Maximum Reimbursable Amount

The Maximum Reimbursable Amount for the term of this Agreement shall not exceed **\$158,100.00** inclusive of out-of-pocket expenses, in accord with the deliverable fee schedule contained in Annex B of this Agreement. The Contractor's fees may be increased during the term of this Agreement and the Department will be given written notice of any increase. The Department shall be responsible for monitoring the funds spent under this Agreement. To the extent the Department requests services exceeding the Maximum Reimbursable Amount, the Department shall be responsible for any excess.

### B. Schedule of Payment

Upon receipt and approval of each of the Contractor's periodic invoices, the Department shall remit to the Contractor a payment of its approved charges in accord with the budget contained in Annex B. Invoices shall be submitted no later than 30 days after the period for which the invoice pertains. The Department may disqualify from payment any invoice received after that time. Invoices shall identify the task or product being invoiced and the overall total charges. The invoices shall be in a form established by the Commissioner or Designate, and shall be accompanied by supporting schedules, documentation, and any other information deemed necessary by the Department. If a final program report is required by the Scope of Services, payment for the last month of the contract shall be contingent upon approval of the final report and bill by the Department.

#### 1. Invoicing and Payment

To do business with the City, vendors must register and create an account in the City's **Payee Information Portal (PIP)**. In PIP, vendors can view financial transactions with the City of New York, register for Electronic Funds Transfer payments, report their subcontractors and subcontractor payments.

**PIP - <https://a127-pip.nyc.gov/webapp/PRDPCW/SelfService>**

The **Vendor Invoice Processing System (VIPS)** is a payment request submission and tracking application. It is designed for NYC Health Department

vendors to upload their invoices and all supportive documents, enter payment requests and track payment requests' statuses. All invoices and supporting documentation to request payment will have to be submitted via VIPS. The Vendor Administrator should complete the activation process or create a new payee/vendor code account on the Payee Information Portal.

**VIPS - <https://www1.nyc.gov/site/doh/business/opportunities/vendor-invoice-processing-system.page>**

C. Disallowances

The City may disallow for payment any expenses or charges which were not authorized or documented in accord with the terms of this Agreement, or for failure to deliver any required service or work product to the satisfaction of the Department. The MRA is inclusive of all amounts to be paid for the services and for the tangible products of such services, including, without limitation, reproduction costs of the reproduction of any documents for training and other purposes.

**IV. PROGRAM MONITORING AND EVALUATION**

The Contractor's performance will be evaluated based on the Contractor's compliance with this Agreement, the Scope of Services attached hereto as Annex A. The evaluation criteria include, but are not be limited to: timeliness of deliverables and any applicable reports, timeliness of services, achievement of level of services, applicable program procedures and methods, program record keeping and reporting, timeliness and accuracy of fiscal reports and payment requisitions. The Contractor shall cooperate fully with the Department regarding the evaluation of the Project. "Project" refers to the Scope of Services in Annex A.

**V. MISCELLANEOUS**

A. Non-Assignment/Subcontractor

This contract shall neither be assigned nor subcontracted by the Contractor in whole or in part without the prior express written consent of the Department.

B. Legal Compliance

Notwithstanding any other provision in this Agreement, the Contractor remains responsible for ensuring that any service provided pursuant to this contract, complies with all pertinent provisions of federal, state or local statutes, rules and regulations, and that all necessary approvals thereunder have been obtained.

C. Equipment

1. Department Property

All equipment (including furniture) which is provided by the Department or paid for under this Agreement shall be deemed to be property of the City and shall be

used as far as practicable by the Contractor for the purpose of carrying out the intent of this Contract and shall not be available for the general use of the Contractor. The Contractor shall label each piece of equipment with the legend "Property of the City of New York, Department of Health and Mental Hygiene." A complete inventory of all such equipment shall be maintained by the Contractor who shall report to the Department acquisitions of equipment no later than ten (10) days after receipt. All such equipment shall be submitted to the Department within thirty (30) days after the expiration or termination of the Agreement. Disposition of the property will be made in accordance with applicable provisions of law.

2. Purchase

The Contractor must obtain the express written consent of the Department prior to the purchase of any equipment that exceeds \$150.00 in purchase price. In addition, for the purchase of any equipment that exceeds \$5,000.00 in purchase price, the Contractor shall obtain five (5) bids for the equipment sought, and provide documentation of said bids to the Department, in a manner acceptable to the Department.

D. NYC Earned Safe and Sick time Act Contract Rider

The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees to be provided with paid safe and sick time. The attached rider supersedes Section 4.06 of Appendix A.

E. Health Services Addendum

The Contractor shall comply with the United States Office of the Inspector General ("OIG") "Exclusionary Rule" outlined in the Health Services Addendum annexed hereto and hereby made a part of the Agreement.

F. Addendum to Appendix A

The addendum attached modifies Appendix A's Subsection B of Section 5.08 (Confidentiality).

G. Notices

All notices and requests hereunder by either party shall be in writing and directed to the address of the parties as follows:

New York City Department of Health  
and Mental Hygiene  
42-09 28th Street  
Long Island City, New York 11101

Westchester County  
148 Martine Avenue  
White Plains, New York 10601

Attn.: Kevin Anderson  
Title: Director of Grants & Contracts  
Division: Environmental Health

Attn: Peggy Schmidt  
Title: Assistant Director of  
Administration

H. Conflict of Terms of Agreement

During the term of the Agreement, conflicts between the various documents shall be resolved in the following order of precedence, such documents constituting the entire Agreement between the parties:

- Appendix A – General Provisions Governing Contracts for Consultants, Professional, Technical, Human, and Client Services
- This Agreement, including the Scope of Services (Annex A) and Budget (Annex B), and all Attachments, Addendums, and Riders
- 

I. Insurance

The Contractor shall maintain the types of insurance as indicated in Article 7 and Schedule A of the attached Appendix A.

J. Independent Annual Audit Report

In the event that this Agreement is subject to 2 Code of Federal Regulations (“CFR”) part 200, then the Contractor shall comply with the provisions of 2 CFR Part 200, including subpart (F) entitled Audit Requirements. Such audit(s) shall be submitted to the Department's Director of Financial and Contract Audits in final form no later than nine (9) months after the expiration of each of the Contractor's audit years that fall within the term of this contract.

NO MORE TEXT ON THIS PAGE

**IN WITNESS WHEREOF**, the City has caused these presents to be executed in triplicate by the Agency Chief Contracting Officer and the Contractor has done the same.

**THE CITY OF NEW YORK, ACTING  
THROUGH ITS DEPARTMENT OF  
HEALTH AND MENTAL HYGIENE**

**WESTCHESTER COUNTY**

BY: \_\_\_\_\_  
Judi Rich Soehren  
Agency Chief Contracting Officer

BY: \_\_\_\_\_  
[Signature]

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

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

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**Notary Public or  
Commissioner of Deeds**

**Notary Public or  
Commissioner of Deeds**

**Approved as to Form:  
Certified as to Legal Authority**

By: \_\_\_\_\_  
Acting Corporation Counsel

Approved by the Board of Legislators of the County of Westchester on \_\_\_\_\_, 20\_\_ by Act No. \_\_\_\_\_.

Approved:

\_\_\_\_\_  
Associate County Attorney  
The County of Westchester

**Annex A**  
**(Attached Separately)**



**ANNEX A**  
**Scope of Work**  
**Westchester County**  
**Term: March 1, 2024 – February 28, 2029**

**PIN#: 24ET041201R0X00**

**Scope of Work**

**Analyzing the Office of Public Health Engineering (PHE) Water Samples**

The Contractor will provide the following services to PHE:

1. The Contractor will analyze drinking water samples taken by PHE. Seventy-Three (73) priority sample sites are sampled every month for Standard Water Quality Parameters (WQP) and Microbiology (BACT).
2. The Contractor will analyze a subset of monthly samples for Metals and nitrates at 5 entry point sampling locations and 5 distal sites that are monitored for Volatile Organic Chemicals (VOC) and Total Trihalomethanes (TTHM).
3. The Contractor will provide a full service laboratory that performs analytical tests on drinking, bottled, surface and ground water, wastewater, soils, solids, hazardous waste and other items.
4. All routine samples are tested and delivered to the Contractor for analysis once a month. The turnaround time for testing is two weeks to receive the results. The turnaround time may be extended due to extraneous circumstances which could include, but are not limited to, non-functionality of equipment, unavailability of laboratory supplies, absence of key staff, the excessive number of samples submitted by the Department within a relative time period, the total number of samples currently in the Contractor's laboratory and the priority of these samples, weather conditions, loss of utility services, other unforeseen, emergency or catastrophic events, etc. Should any of these situations occur, the Contractor will advise the Department of the delay in turnaround time.
5. The samples used for the analysis are disposed of accordingly by the Contractor.
6. The estimated number and types of routine samples are listed in the table below. If necessary for non-routine PHE or ESE Bureau partner operations, additional samples of the same or different parameters may be analyzed by the Contractor and charged according to the most current published schedule of prices.

Annual Water Quality Surveillance Samples Taken by PHE			
Parameter	Description	Estimated Samples (Per Year)	Estimated Samples (6 Years)
Bacteria	Samples tested by the Public Health Lab	876	5,256
Water Quality Parameters (hardness, conductivity, fluoride, pH, temp. etc.)	Samples tested by the Public Health Lab	876	5,256

Nitrate, Sulfate	Samples tested by the Public Health Lab	876	5,256
*VOC	Haloacetic Acids	60	360
*VOC	Base Neutrals – EPA 625	60	360
*VOC	Volatile Organic Compounds	60	360
*VOC	Purgeable Organic Compounds	60	360
*TTHM	Trihalomethanes	60	360
*Metals I	ICPMS Metals	60	360
*Metals II	Potable Metals Digestion	60	360
*Metals II	Iron	60	360
*Metals II	Sodium	60	360
<b>Estimated Total</b>		<b>2,352</b>	<b>19,008</b>

\* Water samples sent to the Contractor for testing.

**Annex B**  
**(Attached Separately)**

## Department of Health and Mental Hygiene

### Contract Details

**Vendor :** WESTCHESTER COUNTY  
**Service :** This service is for analyzing the Office of Public Health Engineering water sample.  
**Term From :** 03/01/2024      **To :** 02/28/2029  
**CID/PIN :** 77081/24ET041201R0X00  
**SetName :** Westchester County

### ANNEX B DELIVERY BASED BUDGET

**Fiscal Year: 2024**

**Section :** FY24 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2024	\$10,540.00
<b>TOTAL</b>		<b>\$10,540.00</b>

**Total for Fiscal Year :** \$10,540.00

**Fiscal Year: 2025**

**Section :** FY25 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2025	\$31,620.00
<b>TOTAL</b>		<b>\$31,620.00</b>

**Total for Fiscal Year :** \$31,620.00

**Fiscal Year: 2026**

**Section :** FY26 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2026	\$31,620.00
<b>TOTAL</b>		<b>\$31,620.00</b>

**Total for Fiscal Year :** \$31,620.00

**Fiscal Year: 2027**

**Section :** FY27 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2027	\$31,620.00
<b>TOTAL</b>		<b>\$31,620.00</b>

**Total for Fiscal Year :** \$31,620.00

**Fiscal Year: 2028**

**Section :** FY28 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2028	\$31,620.00
<b>TOTAL</b>		<b>\$31,620.00</b>

**Total for Fiscal Year :** \$31,620.00

**Fiscal Year: 2029**

**Section :** FY29 - Annual Water Quality Samples

Description	Due Date	Total
Annual Water Quality Surveillance Samples Taken by PHE	06/30/2029	\$21,080.00
<b>TOTAL</b>		<b>\$21,080.00</b>

**Total for Fiscal Year :** \$21,080.00

**Summary Budget**

Fiscal Year	Amount
2024	\$10,540.00
2025	\$31,620.00
2026	\$31,620.00
2027	\$31,620.00
2028	\$31,620.00
2029	\$21,080.00
<b>Total for all Fiscal Years</b>	<b>\$158,100.00</b>

## Department of Health and Mental Hygiene

### Contract Details

**Vendor :** WESTCHESTER COUNTY  
**Service :** This service is for analyzing the Office of Public Health Engineering water sample.  
**Term From :** 03/01/2024      **To :** 02/28/2029  
**CID/PIN :** 77081/24ET041201R0X00  
**SetName :** Westchester County

### COMBINATION WITH SUMMARY

#### Fiscal Year: 2024

Line Item Total	\$0.00
Deliverable Based Total	\$10,540.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$10,540.00</b>
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#### Fiscal Year: 2025

Line Item Total	\$0.00
Deliverable Based Total	\$31,620.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$31,620.00</b>
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#### Fiscal Year: 2026

Line Item Total	\$0.00
Deliverable Based Total	\$31,620.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$31,620.00</b>
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#### Fiscal Year: 2027

Line Item Total	\$0.00
Deliverable Based Total	\$31,620.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$31,620.00</b>
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#### Fiscal Year: 2028

Line Item Total	\$0.00
Deliverable Based Total	\$31,620.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$31,620.00</b>
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#### Fiscal Year: 2029

Line Item Total	\$0.00
Deliverable Based Total	\$21,080.00
Unit Cost Total	\$0.00

<b>Total for all Fiscal Years</b>	<b>\$21,080.00</b>
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### SUMMARY:

Line Item Total	\$0.00
Deliverable Based Total	\$158,100.00
Unit Cost Total	\$0.00

<b>GRAND TOTAL</b>	<b>\$158,100.00</b>
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**NYC Earned Safe and Sick time Act Contract Rider  
(Attached Separately)**



## **NYC EARNED SAFE AND SICK TIME ACT CONTRACT RIDER**

(To supersede Section 4.06 of the January 2018 Appendix A and Section 35.5 of the March 2017 Standard Construction Contract and to be attached to other City contracts and solicitations)

### ***A. Introduction and General Provisions.***

1. The Earned Safe and Sick Time Act (“ESSTA”), codified at Title 20, Chapter 8 of the New York City Administrative Code, also known as the “Paid Safe and Sick Leave Law,” requires covered employees (as defined in Admin. Code § 20-912) in New York City (“City”) to be provided with paid safe and sick time. Contractors of the City or of other governmental entities may be required to provide safe and sick time pursuant to the ESSTA. The ESSTA is enforced by the City’s Department of Consumer and Worker Protection (“DCWP”), which has promulgated 6 RCNY §§ 7-101 and 201 *et seq.* (“DCWP Rules”).

2. The Contractor agrees to comply in all respects with the ESSTA and the DCWP Rules, and as amended, if applicable, in the performance of this agreement. The Contractor further acknowledges that such compliance is a material term of this agreement and that failure to comply with the ESSTA in performance of this agreement may result in its termination.

3. The Contractor must notify (with a copy to DCWP at [ComplianceMonitoring@dcwp.nyc.gov](mailto:ComplianceMonitoring@dcwp.nyc.gov)) the Agency Chief Contracting Officer of the City Agency or other entity with whom it is contracting in writing within 10 days of receipt of a complaint (whether oral or written) or notice of investigation regarding the ESSTA involving the performance of this agreement. Additionally, the Contractor must cooperate with DCWP’s guidance and must comply with DCWP’s subpoenas, requests for information, and other document demands as set forth in the ESSTA and the DCWP Rules. More information is available at <https://www1.nyc.gov/site/dca/about/paid-sick-leave-what-employers-need-to-know.page>.

4. Upon conclusion of a DCWP investigation, Contractor will receive a findings letter detailing any employee relief and civil penalties owed. Pursuant to the findings, Contractor will have the opportunity to settle any violations and cure the breach of this agreement caused by failure to comply with the ESSTA either i) without a trial by entering into a consent order or ii) appearing before an impartial judge at the City’s administrative tribunal. In addition to and notwithstanding any other rights and remedies available to the City, non-payment of relief and penalties owed pursuant to a consent order or final adjudication within 30 days of such consent order or final adjudication may result in the termination of this agreement without further opportunity to settle or cure the violations.

5. The ESSTA is briefly summarized below for the convenience of the Contractor. The Contractor is advised to review the ESSTA and the DCWP Rules in their entirety. The Contractor may go to [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) for resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Contractor can get more information about how to comply with the ESSTA and the DCWP Rules. The Contractor acknowledges that it is responsible for compliance with the ESSTA and the DCWP Rules notwithstanding any inconsistent language contained herein.

**B. *Pursuant to the ESSTA and DCWP Rules: Applicability, Accrual, and Use.***

1. An employee who works within the City must be provided paid safe and sick time.<sup>1</sup> Employers with one hundred or more employees are required to provide 56 hours of safe and sick time for an employee each calendar year. Employers with fewer than one hundred employees are required to provide 40 hours of sick leave each calendar year. Employers must provide a minimum of one hour of safe and sick time for every 30 hours worked by an employee and compensation for such safe and sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage at the time the paid safe or sick time is taken. Employers are not discouraged or prohibited from providing more generous safe and sick time policies than what the ESSTA requires.

2. Employees have the right to determine how much safe and sick time they will use, provided that an employer may set a reasonable minimum increment for the use of safe and sick time not to exceed four hours per day. For the use of safe time or sick time beyond the set minimum increment, an employer may set fixed periods of up to thirty minutes beyond the minimum increment. In addition, an employee may carry over up to 40 or 56 hours of unused safe and sick time to the following calendar year, provided that no employer is required to carry over unused paid safe and sick time if the employee is paid for such unused safe and sick time and the employer provides the employee with at least the legally required amount of paid safe and sick time for such employee for the immediately subsequent calendar year on the first day of such calendar year.

3. An employee entitled to safe and sick time pursuant to the ESSTA may use safe and sick time for any of the following:

a. such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;

b. such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, the child or parent of an employee's spouse or domestic partner, any other individual related by blood to the employee, and any other individual whose close association with the employee is the equivalent of a family relationship) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

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<sup>1</sup> Pursuant to the ESSTA, if fewer than five employees work for the same employer, and the employer had a net income of less than one million dollars during the previous tax year, such employer has the option of providing such employees uncompensated safe and sick time.

c. closure of such employee's place of business by order of a public official due to a public health emergency;

d. such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency; or

e. when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking:

1. to obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
2. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
3. to meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
4. to file a complaint or domestic incident report with law enforcement;
5. to meet with a district attorney's office;
6. to enroll children in a new school; or
7. to take other actions necessary to maintain, improve, or restore the physical, psychological, or economic, health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

4. An employer must not require an employee, as a condition of taking safe and sick time, to search for a replacement. However, where the employee's need for safe and sick time is foreseeable, an employer may require an employee to provide reasonable notice of the need to use safe and sick time. For an absence of more than three consecutive work days, an employer may require reasonable documentation that the use of safe and sick time was needed for a reason listed in Admin. Code § 20-914; and/or written confirmation that an employee used safe and sick time pursuant to the ESSTA. However, an employer may not require documentation specifying the nature of a medical condition, require disclosure of the details of a medical condition, or require disclosure of the details of a family offense matter, sexual offense, stalking, or human trafficking, as a condition of providing safe and sick time. Health information and information concerning family offenses, sexual offenses, stalking or human trafficking obtained solely due to an

employee's use of safe and sick time pursuant to the ESSTA must be treated by the employer as confidential. An employer must reimburse an employee for all reasonable costs or expenses incurred in obtaining such documentation for the employer.

5. An employer must provide to all employees a written policy explaining its method of calculating sick time, policies regarding the use of safe and sick time (including any permissible discretionary conditions on use), and policies regarding carry-over of unused time at the end of the year, among other topics. It must provide the policy to employees using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny safe and sick time to an employee because of non-compliance with such a policy.

6. An employer must provide a pay statement or other form of written documentation that informs the employee of the amount of safe/sick time accrued and used during the relevant pay period and the total balance of the employee's accrued safe/sick time available for use.

7. Safe and sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the safe and sick time was used.

C. *Exemptions and Exceptions.* Notwithstanding the above, the ESSTA does not apply to any of the following:

1. an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2. an employee covered by a valid collective bargaining agreement, if the provisions of the ESSTA are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the ESSTA for such employee;

3. an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines their own schedule, has the ability to reject or accept any assignment referred to them, and is paid an average hourly wage that is at least four times the federal minimum wage;

4. an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

5. an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or

6. a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D. *Retaliation Prohibited.* An employer shall not take any adverse action against an employee that penalizes the employee for, or is reasonably likely to deter the employee from or interfere with the employee exercising or attempting in good faith to exercise any right provided by the ESSTA. In addition, an employer shall not interfere with any investigation, proceeding, or hearing pursuant to the ESSTA.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the ESSTA. Such notice must be in English and the primary language spoken by an employee, provided that DCWP has made available a translation into such language. Downloadable notices are available on DCWP's website at <https://www1.nyc.gov/site/dca/about/Paid-Safe-Sick-Leave-Notice-of-Employee-Rights.page>. The notice must be provided to the employees by a method that reasonably ensures personal receipt by the employee.

2. Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed \$50.00 for each employee who was not given appropriate notice.

F. *Records.* An employer must retain records documenting its compliance with the ESSTA for a period of at least three years, and must allow DCWP to access such records in furtherance of an investigation related to an alleged violation of the ESSTA.

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the ESSTA, DCWP must investigate such complaint. DCWP may also open an investigation to determine compliance with the ESSTA on its own initiative. Upon notification of a complaint or an investigation by DCWP, the employer must provide DCWP with a written response and any such other information as DCWP may request. If DCWP believes that a violation of the ESSTA has occurred, it has the right to issue a notice of violation to the employer.

2. DCWP has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, but is not limited to, treble damages for the wages that should have been paid; statutory damages for unlawful retaliation; and damages, including statutory damages, full compensation for wages and benefits lost, and reinstatement, for unlawful discharge. In addition, DCWP may impose on an employer found to have violated the ESSTA civil penalties not to exceed \$500.00 for a first violation, \$750.00 for a second violation within two years of the first violation, and \$1,000.00 for each succeeding violation within two years of the previous violation. When an employer has a policy or practice of not providing or refusing to allow the use of safe and sick time to its employees, DCWP may seek penalties and relief on a per employee basis.

3. Pursuant to Admin. Code § 20-924.2, (a) where reasonable cause exists to believe that an employer is engaged in a pattern or practice of violations of the ESSTA, the Corporation Counsel may commence a civil action on behalf of the City in a court of competent jurisdiction by filing a complaint setting forth facts relating to such pattern or practice and requesting relief, which may include injunctive relief, civil penalties and any other appropriate relief. Nothing in § 20-924.2 prohibits DCWP from exercising its authority under section 20-924 or the Charter, provided that a civil action pursuant to § 20-924.2 shall not have previously been commenced.

H. *More Generous Policies and Other Legal Requirements.* Nothing in the ESSTA is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous safe and sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous safe and sick time. The ESSTA provides minimum requirements pertaining to safe and sick time and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of safe and sick leave or time, whether paid or unpaid, or that extends other protections to employees. The ESSTA may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

**Addendum to Appendix A  
(Attached Separately)**



**HEALTH SERVICES ADDENDUM  
LIST OF EXCLUDED INDIVIDUALS/ENTITIES**

The CONTRACTOR hereby acknowledges that the United States Office of the Inspector General ("OIG") has developed the "Exclusionary Rule" which prohibits payment by Federal health care programs for items or services furnished by persons and entities who or which have been excluded from participation in Federal health care programs, including, without limitation, MEDICAID, and that the OIG of the Department of Health and Human Services has developed a List of excluded Individuals/Entities that provide information to the health care industry, patients and the public, regarding individuals and entities currently excluded from participation in Medicare, Medicaid and all other Federal health care programs. A similar exclusionary list database has been developed by the New York State Office of the Medicaid Inspector.

**The CONTRACTOR represents and warrants that neither it nor any of its employees, CONTRACTORS, contractors, subcontractors or agents (collectively, the "Providers"), who or which provide items or services under this Agreement is excluded, suspended or debarred from participation in any federal or state health care program or federally funded contracts and that the Providers and their employees, agents, CONTRACTORS and contractors possess all licenses required by law to perform such services.**

The CONTRACTOR shall, prior to performing services pursuant to this Agreement, and periodically thereafter during the term of this Agreement, conduct searches before engaging the services of all proposed Providers to identify and exclude from participation all individuals and entities who or which have been excluded from participation in Federal health care programs. Such searches shall include searches through various federal and state sanction and exclusion databases, including, without limitation, the Federal Exclusions Database and searches offered through the Fraud section of the New York State Office of the Medicaid Inspector General in its List of Excluded Individuals/Entities ("LEIE"), and all successor websites, and after the CONTRACTOR's initial search for all persons or entities prior to the commencement of their provision of medical services the CONTRACTOR shall update its inquiries not less often than monthly. See the following databases:

<https://www.omig.ny.gov/fraud/medicaid-exclusions>  
<http://exclusions.oig.hhs.gov/>

In addition, before any new medical services provider performs medical services or provides items, such exclusionary searches of the new medical services provider shall also be conducted.


CONTRACTOR agrees to immediately inform DOHMH in writing as soon as it is aware that it or any of its employees, agents, or contractors providing items or services under this Agreement, or under any subcontractor agreement with one or more medical Providers, are subject to the imposition of any such sanctions or exclusion, or if any investigation or proceeding is instituted against a Provider that may result in such sanctions or exclusion.

The requirements set forth in this Addendum are material provisions of this Agreement and failure to comply with the provisions contained herein are cause for immediate termination by DOHMH in the event CONTRACTOR, or any of its employees, agents, CONTRACTORS, contractors or subcontractors, or their employees are listed on any federal or state sanction/exclusion list as being subject to sanctions or exclusion.



October 4, 2024

TO: Hon. Vedat Gashi, Chair  
Hon. Jose Alvarado, Vice Chair  
Hon. Tyrae Woodson-Samuels, Majority Leader  
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer   
Westchester County Executive

RE: Message Requesting Immediate Consideration: **Local Law – Enter into Lease Agreement – MG MARTINE SPE LLC.**

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This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators October 7, 2024 Agenda.

Transmitted herewith for your consideration is a proposed Local Law, which, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to enter into a lease agreement (“Lease”) with MG MARTINE SPE LLC (the “Landlord”), in order to lease approximately 57,266 square feet of space comprised of the contiguous 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors on the building (“Building”) located at 11 Martine Avenue, White Plains.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for October 7, 2024 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



George Latimer  
Westchester County Executive

October 3, 2024

Westchester County Board of Legislators  
800 Michaelian Office Building  
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your consideration is a proposed Local Law, which, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to enter into a lease agreement ("Lease") with MG MARTINE SPE LLC (the "Landlord"), in order to lease approximately 57,266 square feet of space comprised of the contiguous 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors on the building ("Building") located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the Building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space (2,000 square feet in the garage area, and another 2,000 square feet to be determined by the parties) along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations, allocated for use by County employees and invitees (collectively the "Leased Premises" or "Premises"), for general office use or any uses ancillary to the County's business and for any other lawful purposes.

The Leased Premises will be occupied by the County's Department of Health, and will replace space currently being leased by the County at 145 Huguenot Avenue, New Rochelle and at 10 County Center, White Plains, and other space occupied by the Department of Health at County property such as the County Airport and property located at 25 Moore Avenue, Mount Kisco.

The initial term of the Lease will be for a period of eleven (11) years and four (4) months (the "Initial Term"), with the County having the option to extend the Initial Term by two (2) additional five year periods (collectively, the "Extended Terms"), upon advance written notice to the Landlord. The Lease will commence on the date the Landlord's Work (as defined below) is "Substantially Complete," e.g.: the date the County's authorized representative provides written notice of acceptance of the Premises, with Landlord's Work completed, subject to minor details of construction or decoration that do not adversely affect the County's ability to occupy the Premises (the "Commencement Date").

The fixed basic rent for the Initial Term and each of the Extended Terms, will be paid in equal monthly installments, as set forth below noting that there is a 2.5% annual increase over the rent paid during the immediately preceding year ("Fixed Basic Rent"):

<b>Initial Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 1 through Month 12	\$1,775,246.00	\$147,937.17	\$31.00
Month 13 through Month 24	\$1,819,627.15	\$151,635.60	\$31.78
Month 25 through Month 36	\$1,865,117.83	\$155,426.49	\$32.57
Month 37 through Month 48	\$1,911,745.78	\$159,312.15	\$33.38
Month 49 through Month 60	\$1,959,539.43	\$163,294.95	\$34.22
Month 61 through Month 72	\$2,008,527.92	\$167,377.33	\$35.07
Month 73 through Month 84	\$2,058,741.12	\$171,561.76	\$35.95
Month 85 through Month 96	\$2,110,209.65	\$175,850.80	\$36.85
Month 97 through Month 108	\$2,162,964.89	\$180,247.07	\$37.77
Month 109 through Month 120	\$2,217,039.01	\$184,753.25	\$38.71
Month 121 through Month 132	\$2,272,464.99	\$189,372.06	\$39.68
Month 133 through Month 136	\$2,329,276.62	\$194,106.38	\$40.67
<b>First Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 137 through Month 148	\$2,329,276.62	\$194,106.38	\$40.67
Month 149 through Month 160	\$2,387,508.54	\$198,959.04	\$41.69
Month 161 through Month 172	\$2,447,196.25	\$203,933.02	\$42.73
Month 173 through Month 184	\$2,508,376.16	\$209,031.35	\$43.80
Month 185 through Month 196	\$2,571,085.56	\$214,257.13	\$44.93
<b>Second Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 197 through Month 208	\$2,635,362.70	\$219,613.56	\$46.05
Month 209 through Month 220	\$2,701,246.77	\$225,103.90	\$47.20
Month 221 through Month 232	\$2,768,777.94	\$230,731.50	\$48.38
Month 233 through Month 244	\$2,837,997.40	\$236,499.78	\$49.59
Month 245 through Month 256	\$2,908,947.34	\$242,412.28	\$50.83

I have been advised that the Landlord has agreed to a rent concession to be applied to the Fixed Basic Rent for the first 16 months of the Initial Term in an amount of \$17,513.15 per month. The County agrees to pay the monthly installment of Fixed Basic Rent and Parking Space charge due in respect of the first full calendar month following the Commencement Date, within 30 days from the Effective Date. In addition, if the Commencement Date is not the first day of a month, the County will pay the prorated monthly installment of Fixed Basic Rent and Parking Space charge due with respect to such partial month, within 15 days from the Commencement Date.

Pursuant to the Lease, in addition to the above Fixed Basic Rent, the County will pay as additional rent ("Additional Rent") all other operating costs, expenses and fees, including utility costs, such as electricity, water, sewer, gas, heating, ventilating, air conditioning and other utilities, and including applicable fuel surcharges and sales or use taxes related thereto, parking fees, operating costs including, personal property taxes, if applicable, maintenance fees, maintenance and repair costs, tools and other equipment, trash removal, lawn care, snow removal, all fire and other insurance costs, of the Building, sidewalks, and certain, but not all "Related Facilities" that benefit the Building, as well as applicable real estate taxes. The County will pay 100% of the



operating costs attributable to Commercial Portion of the Building, which is comprised of the entirety of the Premises, and will pay 21.96% of the operating costs attributable to both the Commercial Portion and Residential Portion of the Building, based on the total square footage of the Premises as it relates to the total square footage of the Building (i.e.,  $57,266/260,628 \times 100$ ).

In addition, pursuant to the Lease, the County will pay an Annual Parking Fee of \$137,400.00, which reflects the monthly cost of \$50.00 per month for each parking space (229 in total, inclusive of 40 electric vehicle charging stations ("Parking Spaces"), subject to a 2.5% annual increase over the immediately preceding year. With respect to the parking spaces, the County has the right to increase or reduce the number of Parking Spaces, in which event the Annual Parking Fee will be adjusted accordingly. The Parking Spaces will be reserved for the County's exclusive use and will be identified with either signage or the use of a color coding system. The garage will be open 24 hours per day seven days per week. The County shall have exclusive access to 40 electric vehicle charging stations, and only be responsible for the electricity charges in connection therewith. Landlord will maintain and repair the 40 electric vehicle charging stations, at its sole cost and expense, during the Term of the Lease. In addition, the County shall have the right, to relinquish up to twenty percent (20%) of the required electric vehicle charging stations, for use by other tenants or invitees of the Building, provided the County is not required to pay for the electricity charges related thereto and the County may revoke its decision to relinquish certain electric vehicle charging stations at any time, after the giving of notice to the Landlord of such election.

The Landlord will renovate the Leased Premises in accordance with the final plans approved by the County and the work letter attached to the Lease as Exhibit C ("Work Letter"), which annexes the County's Work Letter prepared by Perkins – Eastman, setting forth the County's minimum requirements and specifications (the "Landlord's Work"). The Landlord is required to commence the Landlord's Work no later than thirty (30) days from receipt of all necessary approvals and proceed with diligence to complete such work as soon as reasonably possible, subject to Tenant's Delay and Force Majeure (as defined in the Lease), which 270-day period may be extended by the number of days corresponding to Tenant's Delay and Force Majeure. In the event the Landlord fails to complete the Landlord's Work within 270 days following the execution of the Lease by both parties, Landlord will pay the County a rent credit equivalent to two (2) gross days for each and every day of delay following said 270-day period in completing the Landlord's Work, subject to Tenant's Delays and Force Majeure, provided, however, in the event the Landlord's Work is not completed within 365 days following the date the Lease is executed by the parties and approved by the County Attorney ("Effective Date"), due to no fault of the County, the County will have the right to either terminate the Lease or to complete Landlord's Work, at Landlord's sole cost and expense, without any further obligations or liability whatsoever under the Lease, except with respect to those obligations that survive the earlier termination of the Lease.

Following completion of Landlord's Work, Landlord will promptly deliver the Premises to the County in good operating order in compliance with the Work Letter, the approved final plans, and the Lease. Landlord further represents and warrants to the County, as of the Commencement Date, that Landlord has no actual knowledge of any violation of applicable building codes, regulations, or ordinances with regard to the subject real property, which includes the Building,

the land beneath it, and adjoining parking areas, sidewalks, driveways, landscaping and land, or any part thereof.

Pursuant to the Lease, the Landlord will operate the Building consistent with a "Class A Building" in Westchester County, and will maintain two (2) full time personnel to professionally manage the daily operations of the Premises. The Landlord will provide security for the Building comprised of a manned security station within the parking garage between the hours of Monday through Friday 7:00 am through 10:00 pm, a roving security patrol and Closed-Circuit Television (CCTV) monitors (2 in the lobby and 13 in the parking garage at street level, entrances/exits loading dock and stairwells). The County may take any additional security measures, including installation of security equipment or otherwise to provide supplemental security to the Premises, including the lobby that services exclusively the Premises.

The Landlord will operate, maintain and repair the structural or non-structural elements of the Building, including the Building's roof and all other structural elements of the Building, all Common Facilities, the parking garage, all Building systems, including, but not limited to HVAC, mechanical, ventilating, heating, electrical, lighting, plumbing, fire and life safety systems serving the Premises and/or the Building during the Term of the Lease, in compliance with all applicable laws. Any capital improvements completed by the Landlord at the Premises during the Term of the Lease will be at Landlord's sole cost and expense and will not be included as Additional Rent, unless same is due to the County's gross negligence or willful misconduct, in which event the County will be responsible for such capital expense.

The County, at its sole cost and expense, will make all repairs and replacements, as and when necessary, to the Premises and Tenant's personal property and any non-structural alterations, including, without limitation, any non-standard-office improvements made or performed by or on behalf of the County. However, at the County's election and sole cost and expense, upon notice, the Landlord will perform necessary routine maintenance in the Premises, including replacing light bulbs and ballast, replacing damaged ceiling, restroom or floor tiles and fixtures, repairing or replacing toilets, sinks and pipes, as necessary for the County's intended use of the Premises.

In addition, pursuant to the Lease, all County's employees located at the Premises will be entitled to use the Fitness Center in the nearby building located at 50 Main Street, White Plains, NY ("50 Main St. Building") at no charge, on a first come first served basis. The County will also have the right to use the Executive Dining Room, Board Room and Lecture Hall located in the 50 Main St. Building at no charge, subject to availability, and Landlord will not have the right to cancel or reschedule County's room reservations at any such facilities to accommodate other tenants or visitors. Use of the foregoing facilities will be subject to such rules and regulations as may be in place at any time and from time to time so long as they are also applicable to tenants of the 50 Main St. Building.

The County may not assign the Lease or sublet the Premises, without Landlord's consent and subject to certain conditions, including the payment of a \$2,500 administrative fee for each request for consent, provided the County may assign the Lease or sublet all or any portion of the Premises without Landlord's consent to any department or office of the County directly or indirectly

controlling or controlled by the County or under common control with the County, provided such transfer is for a valid business purpose and not principally for the purpose of transferring the leasehold for a profit or to a shell entity and further provided that (1) the County remains fully and jointly and severally liable for all obligations of the County under the Lease unless such assignee assumes in writing in an instrument reasonably acceptable to both parties, all of the obligations of the County under this Lease, and a copy of such assumption agreement is delivered to the Landlord, and (2) the County will provide Landlord with not less than 30 days prior written notice of any such intended assignment or sublease.

It should be noted that the County will also have a right of first offer should the Landlord decide to sell the Leased Premises during the Lease Term, if exercised within thirty (30) days of receipt of notice from the Landlord, subject to all necessary legal approvals.

I have been advised that pursuant to Section 104.11(5)(e) of the Laws of Westchester County, authorization of the proposed Lease requires passage of a Local Law. Also attached is a Resolution authorizing a Public Hearing as required by §209.141(4) of the Laws of Westchester County.

Based upon the foregoing, I believe that the proposed Lease is in the best interest of the County. Therefore, I recommend the favorable action of your Honorable Board on the annexed proposed legislation.

Very truly yours,



George Latimer  
Westchester County Executive

**HONORABLE BOARD OF LEGISLATORS  
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive recommending this Honorable Board adopt a Local Law to authorize the County of Westchester (the “County”) to enter into a to enter into a lease agreement (“Lease”) with MG MARTINE SPE LLC (the “Landlord”), in order to lease approximately 57,266 square feet of space comprised of the contiguous 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors on the building (“Building”) located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the Building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space (2,000 square feet in the garage area, and another 2,000 square feet to be determined by the parties) along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations, allocated for use by County employees and invitees (collectively the “Leased Premises” or “Premises”), for general office use or any uses ancillary to the County’s business and for any other lawful purposes.

Your Committee is advised that the Leased Premises will be occupied by the County’s Department of Health, and will replace space currently being leased by the County at 145 Huguenot Avenue, New Rochelle and at 10 County Center, White Plains, and other space occupied by the Department of Health at County property such as the County Airport and property located at 25 Moore Avenue, Mount Kisco.

Your Committee is advised that the initial term of the Lease will be for a period of eleven (11) years and four (4) months (the “Initial Term”), with the County having the option to extend the Initial Term by two (2) additional five year periods (collectively, the “Extended Terms”), upon advance written notice to the Landlord. The Lease will commence on the date the Landlord’s Work (as defined below) is “Substantially Complete,” e.g.: the date the County’s authorized representative provides written notice of acceptance of the Premises, with Landlord’s Work completed, subject to minor details of construction or decoration that do not adversely affect the County’s ability to occupy the Premises (the “Commencement Date”).



Your Committee is also advised that the fixed basic rent for the Initial Term and each of the Extended Terms, will be paid in equal monthly installments, as set forth below noting that there is a 2.5% annual increase over the rent paid during the immediately preceding year ("Fixed Basic Rent"):

<b>Initial Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 1 through Month 12	\$1,775,246.00	\$147,937.17	\$31.00
Month 13 through Month 24	\$1,819,627.15	\$151,635.60	\$31.78
Month 25 through Month 36	\$1,865,117.83	\$155,426.49	\$32.57
Month 37 through Month 48	\$1,911,745.78	\$159,312.15	\$33.38
Month 49 through Month 60	\$1,959,539.43	\$163,294.95	\$34.22
Month 61 through Month 72	\$2,008,527.92	\$167,377.33	\$35.07
Month 73 through Month 84	\$2,058,741.12	\$171,561.76	\$35.95
Month 85 through Month 96	\$2,110,209.65	\$175,850.80	\$36.85
Month 97 through Month 108	\$2,162,964.89	\$180,247.07	\$37.77
Month 109 through Month 120	\$2,217,039.01	\$184,753.25	\$38.71
Month 121 through Month 132	\$2,272,464.99	\$189,372.06	\$39.68
Month 133 through Month 136	\$2,329,276.62	\$194,106.38	\$40.67
<b>First Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 137 through Month 148	\$2,329,276.62	\$194,106.38	\$40.67
Month 149 through Month 160	\$2,387,508.54	\$198,959.04	\$41.69
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Month 173 through Month 184	\$2,508,376.16	\$209,031.35	\$43.80
Month 185 through Month 196	\$2,571,085.56	\$214,257.13	\$44.93
<b>Second Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 197 through Month 208	\$2,635,362.70	\$219,613.56	\$46.05
Month 209 through Month 220	\$2,701,246.77	\$225,103.90	\$47.20
Month 221 through Month 232	\$2,768,777.94	\$230,731.50	\$48.38
Month 233 through Month 244	\$2,837,997.40	\$236,499.78	\$49.59
Month 245 through Month 256	\$2,908,947.34	\$242,412.28	\$50.83

Your Committee is further advised that the Landlord has agreed to a rent concession to be applied to the Fixed Basic Rent for the first 16 months of the Initial Term in an amount of \$17,513.15 per month. The County agrees to pay the monthly installment of Fixed Basic Rent and Parking Space charge due in respect of the first full calendar month following the Commencement Date, within 30 days from the Effective Date. In addition, if the Commencement Date is not the first day of a month, the County will pay the prorated monthly installment of Fixed



Basic Rent and Parking Space charge due with respect to such partial month, within 15 days from the Commencement Date.

Pursuant to the Lease, in addition to the above Fixed Basic Rent, the County will pay as additional rent (“Additional Rent”) all other operating costs, expenses and fees, including utility costs, such as electricity, water, sewer, gas, heating, ventilating, air conditioning and other utilities, and including applicable fuel surcharges and sales or use taxes related thereto, parking fees, operating costs including, personal property taxes, if applicable, maintenance fees, maintenance and repair costs, tools and other equipment, trash removal, lawn care, snow removal, all fire and other insurance costs, of the Building, sidewalks, and certain, but not all “Related Facilities” that benefit the Building, as well as applicable real estate taxes. The County will pay 100% of the operating costs attributable to Commercial Portion of the Building, which is comprised of the entirety of the Premises, and will pay 21.96% of the operating costs attributable to both the Commercial Portion and Residential Portion of the Building, based on the total square footage of the Premises as it relates to the total square footage of the Building (i.e.,  $57,266/260,628 \times 100$ ).

In addition, your Committee is advised that the County will pay an Annual Parking Fee of \$137,400.00, which reflects the monthly cost of \$50.00 per month for each parking space (229 in total, inclusive of 40 electric vehicles charging stations (“Parking Spaces”), subject to a 2.5% annual increase over the immediately preceding year. With respect to the parking spaces, the County has the right to increase or reduce the number of Parking Spaces, in which event the Annual Parking Fee will be adjusted accordingly. The Parking Spaces will be reserved for the County’s exclusive use and will be identified with either signage or the use of a color coding system. The garage will be open 24 hours per day seven days per week. The County shall have exclusive access to 40 electric vehicle charging stations, and only be responsible for the electricity charges in connection therewith. Landlord will maintain and repair the 40 electric vehicle charging stations, at its sole cost and expense, during the Term of the Lease. In addition, the County shall have the right, to relinquish up to twenty percent (20%) of the required electric vehicle charging stations, for use by other tenants or invitees of the Building, provided the County is not required to pay for the electricity charges related thereto and the County may revoke its decision to relinquish certain electric vehicles charging stations at any time, after the giving of notice to the Landlord of such election.

Your Committee is further advised that the Landlord will renovate the Leased Premises in accordance with the final plans approved by the County and the work letter attached to the Lease as Exhibit C (“Work Letter”), which annexes the County’s Work Letter prepared by Perkins – Eastman, setting forth the County’s minimum requirements and specifications (the “Landlord’s Work”). The Landlord is required to commence the Landlord’s Work no later than thirty (30) days from receipt of all necessary approvals and proceed with diligence to complete such work as soon as reasonably possible, subject to Tenant’s Delay and Force Majeure (as defined in the Lease), which 270-day period may be extended by the number of days corresponding to Tenant’s Delay and Force Majeure. In the event the Landlord fails to complete the Landlord’s Work within 270 days following the execution of the Lease by both parties, Landlord will pay the County a rent credit equivalent to two (2) gross days for each and every day of delay following said 270-day period in completing the Landlord’s Work, subject to Tenant’s Delays and Force Majeure, provided, however, in the event the Landlord’s Work is not completed within 365 days following the date the Lease is executed by the parties and approved by the County Attorney (“Effective Date”), due to no fault of the County, the County will have the right to either terminate the Lease or to complete Landlord’s Work, at Landlord’s sole cost and expense, without any further obligations or liability whatsoever under the Lease, except with respect to those obligations that survive the earlier termination of the Lease.

Following completion of Landlord’s Work, Landlord will promptly deliver the Premises to the County in good operating order in compliance with the Work Letter, the approved final plans, and the Lease. Landlord further represents and warrants to the County, as of the Commencement Date, that Landlord has no actual knowledge of any violation of applicable building codes, regulations, or ordinances with regard to the subject real property, which includes the Building, the land beneath it, and adjoining parking areas, sidewalks, driveways, landscaping and land, or any part thereof.

Your Committee is also advised that the Landlord will operate the Building consistent with a “Class A Building” in Westchester County, and will maintain two (2) full time personnel to professionally manage the daily operations of the Premises. The Landlord will provide security for the Building comprised of a manned security station within the parking garage between the hours of Monday through Friday 7:00 am through 10:00 pm, a roving security patrol and Closed-

Circuit Television (CCTV) monitors (2 in the lobby and 13 in the parking garage at street level, entrances/exits loading dock and stairwells). The County may take any additional security measures, including installation of security equipment or otherwise to provide supplemental security to the Premises, including the lobby that services exclusively the Premises.

Your Committee is further advised that the Landlord will operate, maintain and repair the structural or non-structural elements of the Building, including the Building's roof and all other structural elements of the Building, all Common Facilities, the parking garage, all Building systems, including, but not limited to HVAC, mechanical, ventilating, heating, electrical, lighting, plumbing, fire and life safety systems serving the Premises and/or the Building during the Term of the Lease, in compliance with all applicable laws. Any capital improvements completed by the Landlord at the Premises during the Term of the Lease will be at Landlord's sole cost and expense and will not be included as Additional Rent, unless same is due to the County's gross negligence or willful misconduct, in which event the County will be responsible for such capital expense.

Your Committee is also advised that the County, at its sole cost and expense, will make all repairs and replacements, as and when necessary, to the Premises and Tenant's personal property and any non-structural alterations, including, without limitation, any non-standard-office improvements made or performed by or on behalf of the County. However, at the County's election and sole cost and expense, upon notice, the Landlord will perform necessary routine maintenance in the Premises, including replacing light bulbs and ballast, replacing damaged ceiling, restroom or floor tiles and fixtures, repairing or replacing toilets, sinks and pipes, as necessary for the County's intended use of the Premises.

Your Committee is advised that, all County's employees located at the Premises will be entitled to use the Fitness Center in the nearby building located at 50 Main Street, White Plains, NY ("50 Main St. Building") at no charge, on a first come first served basis. The County will also have the right to use the Executive Dining Room, Board Room and Lecture Hall located in the 50 Main St. Building at no charge, subject to availability, and Landlord will not have the right to cancel or reschedule County's room reservations at any such facilities to accommodate other tenants or visitors. Use of the foregoing facilities will be subject to such rules and regulations as

may be in place at any time and from time to time so long as they are also applicable to tenants of the 50 Main St. Building.

Lastly, the County may not assign the Lease or sublet the Premises, without Landlord's consent and subject to certain conditions, including the payment of a \$2,500 administrative fee for each request for consent, provided the County may assign the Lease or sublet all or any portion of the Premises without Landlord's consent to any department or office of the County directly or indirectly controlling or controlled by the County or under common control with the County, provided such transfer is for a valid business purpose and not principally for the purpose of transferring the leasehold for a profit or to a shell entity and further provided that (1) the County remains fully and jointly and severally liable for all obligations of the County under the Lease unless such assignee assumes in writing in an instrument reasonably acceptable to both parties, all of the obligations of the County under this Lease, and a copy of such assumption agreement is delivered to the Landlord, and (2) the County will provide Landlord with not less than 30 days prior written notice of any such intended assignment or sublease.

It should be noted that the County will also have a right of first offer should the Landlord decide to sell the Leased Premises during the Lease Term, if exercised within thirty (30) days of receipt of notice from the Landlord, subject to all necessary legal approvals.

The Department of Planning has advised your Committee that based on its review, the authorization of the proposed Lease may be classified as a Type "II" action pursuant to the State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617 ("SEQR"). Therefore, no environmental review is required. Your Committee has reviewed the annexed SEQR documentation and concurs with this recommendation.

Your Committee is advised that pursuant to Section 104.11(5)(e) of the Laws of Westchester County, leases of the property of others for County purposes for terms exceeding ten (10) years may be made only by local law adopted by an affirmative vote of two-thirds of all members of the Board of Legislators. Prior to taking any action on the proposed Local Law, this Honorable Board must hold a public hearing pursuant to 209.141(4) of the Laws of Westchester County, and a resolution providing for the hearing is annexed hereto.

Upon careful consideration, your Committee finds the proposed Lease to be in the County's best interests as it provides for an adequate space for the Department of Health to more efficiently conduct its business and operations, and therefore your Committee recommends approval of the proposed Local Law.

Dated: \_\_\_\_\_, 2024

White Plains, New York

COMMITTEE ON

DOH/11 Martine Avenue Lease Leg.cmc.10.03.2024

# FISCAL IMPACT STATEMENT

SUBJECT: 11 Martine Ave

☐ NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

☒ GENERAL FUND

☐ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): ☒ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations

☐ Other (explain)

Identify Accounts: 101-46-3300-3338-4320-GGDS

Potential Related Operating Budget Expenses: Annual Amount \$2,000,000

Describe: 2025: \$4,134,520 includes: Build out, moving, Rent, Electricity & Parking.

Potential Related Operating Budget Revenues: Annual Amount

Describe: None

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: None

Next Four Years: Rent @ 145 Huguenot St. ~\$900,000 annually

Prepared by: Anthony Finateri

Title: Director of Administrative Services

Department: Public Works & Transportation

Date: October 2, 2024

Reviewed By:   
Budget Director

Date: 10/3/24



TO: Carla Chaves, Senior Assistant County Attorney  
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM  
Assistant Commissioner



DATE: October 3, 2024

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR LEASE OF  
11 MARTINE AVENUE, WHITE PLAINS FOR DEPARTMENT OF  
HEALTH**

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**PROJECT/ACTION:** Lease of approximately 57,226 square feet of office and lobby space at 11 Martine Avenue in the City of White Plains for use by the County Department of Health. The County will occupy the 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors. The lease will include approximately 4,000 square feet of storage space and 229 parking spaces, including 40 with EV charging stations. The term will be 11 years and 4 months with two 5-year renewal options. Under the lease agreement, the landlord will renovate these floors to meet the department's needs. This will allow the Department of Health to consolidate a few of its offices which are currently in multiple locations and municipalities.

**With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no environmental review is required because the project/action may be classified as a TYPE II action pursuant to section(s):**

- **617.5(c)(2):** replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part:
- **617.5(c)(26):** routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment.

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**COMMENTS:** Renovations will be internal. The first set of offices being planned for relocation is presently in leased space at 145 Huguenot Street in New Rochelle. The transition will take approximately one year, providing ample time for the office space being vacated to be remarketed.

DSK/cnm

cc: Andrew Ferris, Chief of Staff  
Paula Friedman, Assistant to the County Executive  
Tami Altschiller, Assistant Chief Deputy County Attorney  
Christopher Steers, Director of Countywide Administrative Services  
Claudia Maxwell, Principal Environmental Planner

- 2024

Dated: \_\_\_\_\_, 2024  
White Plains, New York



**LOCAL LAW INTRO NO. 2024 - \_\_\_\_\_**

**A Local Law** authorizing the County of Westchester to enter into a lease agreement with MG MARTINE SPE LLC, or the owner of record, for approximately 57,266 square feet of space comprised of the contiguous 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors in the building located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space, along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations allocated for use by County employees and invitees, for use by the Department of Health.

**BE IT ENACTED** by the County Board of the County of Westchester as follows:

**Section 1.** The County of Westchester (the “County”) is hereby authorized to enter into a lease agreement (“Lease”) with MG MARTINE SPE LLC (the “Landlord”), for the leasing of approximately 57,266 square feet of space comprised of the contiguous 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floors in the building (“Building”) located at 11 Martine Avenue, White Plains, New York, which includes the ground floor entry lobby of the Building that exclusively serves such floors, plus 4,000 square feet gross rentable storage space (2,000 square feet in the garage area, and another 2,000 square feet to be determined by the parties) along with 229 reserved parking spaces in the parking garage adjacent to the Building, inclusive of 40 electric vehicle charging stations, allocated for use by County employees and invitees (collectively the “Leased Premises” or “Premises”), substantially similar to the form of agreement annexed hereto and made a part hereof.

**§2.** The Leased Premises shall be occupied by the Department of Health for general office use or any uses ancillary to the County’s business and for any lawful purpose.

**§3.** The initial term of the Lease shall be for a period of eleven (11) years and four (4) months (the “Initial Term”), with the County having the option to extend the Initial Term by two (2) additional five year periods, upon advance written notice to the Landlord (collectively, the “Extended Terms”). The Lease Commencement Date shall be the date the Landlord Substantially Completes the work required to enable the County to occupy the Premises.

**§4.** The County shall pay the fixed basic rent for the Initial Term and each of the Extended Terms, in equal monthly installments, as set forth below noting that there is a 2.5% annual increase over the rent paid during the immediately preceding year (“Fixed Basic Rent”):

<b>Initial Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 1 through Month 12	\$1,775,246.00	\$147,937.17	\$31.00
Month 13 through Month 24	\$1,819,627.15	\$151,635.60	\$31.78
Month 25 through Month 36	\$1,865,117.83	\$155,426.49	\$32.57
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Month 133 through Month 136	\$2,329,276.62	\$194,106.38	\$40.67
<b>First Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 137 through Month 148	\$2,329,276.62	\$194,106.38	\$40.67
Month 149 through Month 160	\$2,387,508.54	\$198,959.04	\$41.69
Month 161 through Month 172	\$2,447,196.25	\$203,933.02	\$42.73
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Month 185 through Month 196	\$2,571,085.56	\$214,257.13	\$44.93
<b>Second Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
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Month 209 through Month 220	\$2,701,246.77	\$225,103.90	\$47.20
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Month 233 through Month 244	\$2,837,997.40	\$236,499.78	\$49.59
Month 245 through Month 256	\$2,908,947.34	\$242,412.28	\$50.83

§5. The Landlord shall abate the fixed basic rent during the first 16 months of the Initial Term in the amount of \$17,513.15 per month.

§6. The County shall also pay as additional rent ("Additional Rent") all other operating costs, expenses and fees, including utility costs, such as electricity, water, sewer, gas, heating, ventilating, air conditioning and other utilities, and including applicable fuel surcharges and sales or use taxes related thereto, parking fees, operating costs including, personal property taxes, if applicable, maintenance fees, maintenance and repair costs, tools and other equipment, trash removal, lawn care, snow removal, all fire and other insurance costs, of the Building, sidewalks, and certain, but not all "Related Facilities" that benefit the Building, as well as applicable real estate taxes. The County will pay 100% of the operating costs attributable to Commercial Portion of the Building, which is comprised of the entirety of the Premises, and will pay 21.96% of the operating costs attributable to both the Commercial Portion and Residential Portion of the Building, based on the total square footage of the Premises as it relates to the total square footage of the Building (i.e., 57,266/260,628 x 100).

**§7.** The County shall pay an Annual Parking Fee of \$137,400.00, which reflects the monthly cost of \$50.00 per month for each parking space (229 in total, inclusive of 40 electric vehicle charging stations), subject to a 2.5% annual increase over the immediately preceding year. The County shall have exclusive access to 40 electric vehicle charging stations, and only be responsible for the electricity charges in connection therewith.

**§8.** This Local Law shall take effect immediately.

**AGREEMENT OF LEASE**

**Between**

**MG MARTINE SPE LLC,**

**as Landlord,**

**and**

**THE COUNTY OF WESTCHESTER,**

**as Tenant**

**Building:**

**11 Martine Avenue  
White Plains, New York 10606**



THIS LEASE is made as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_ (“Effective Date”) between **MG MARTINE SPE LLC**, a Delaware limited liability company, whose address is c/o Ginsburg Development Companies, LLC, 100 Summit Lake Drive, Valhalla, New York 10595 (“**Landlord**”) and **THE COUNTY OF WESTCHESTER**, a New York municipal corporation, acting by and through its Department of Health, having an address in the Michaelian Office Building at 148 Martine Avenue, White Plains, New York 10601 (“**Tenant**”). This Lease consists of the following Basic Lease Provisions and Definitions, the General Conditions and the Exhibits. The Basic Lease Provisions and Definitions are referred to in this Lease as the “**Basic Lease Provisions**.”

### **BASIC LEASE PROVISIONS**

1. **BASE PERIOD COSTS** means the following:

- (a) Base Operating Costs: Operating Costs incurred during the Base Operating Year.
- (b) Base Real Estate Taxes: Real Estate Taxes incurred during the Base Tax Year.
- (c) Base Insurance Costs: Insurance Costs incurred during the Base Operating Year.
- (d) Base Utility and Energy Costs: Utility and Energy Costs incurred during the Base Operating Year.

2. **BUILDING** means 11 Martine Avenue, White Plains, New York 10606.

3. **BASE OPERATING YEAR** means the first twelve (12) months commencing on the Commencement Date.

4. **BASE TAX YEAR** means, with respect to County Real Estate Taxes, the first twelve (12) months commencing on the Effective Date and, with respect to City and School Real Estate Taxes, the period July 1, 2025 through and including June 30, 2026.

5. **COMMENCEMENT DATE** shall be the date the Landlord’s Work is Substantially Complete as defined and set forth in Section 5(c) of this Lease, which Landlord anticipates will occur on April 1, 2025.

6. **PREMISES** means the contiguous twelfth (12<sup>th</sup>), fourteenth (14<sup>th</sup>) and fifteenth (15<sup>th</sup>) floors of the Building and the ground floor entry lobby of the Building that exclusively services such floors, which, collectively, comprises approximately 57,266 gross rentable square feet of the Building in a layout as approximately shown on Exhibit A to this Lease plus additional 4,000 gross rentable square feet of storage space, subject to Tenant’s final space plan, provided however the location of 2,000 square feet of storage space has been accepted by Tenant and is more particularly depicted on Exhibit A. The foregoing notwithstanding, after substantial completion of Landlord’s Work, Landlord shall measure the Premises in accordance with ANSI/BOMA Z65.1-2017 Multiple Load Factor Method for Measuring Floor Area in Office Buildings and shall notify Tenant in writing of the actual gross rental square feet in the Premises. Any loss factor utilized in determining rentable square feet shall not exceed Westchester County Office building market standards. Upon the measurement for the Premises pursuant to this Section, if the measured gross rentable square feet is less than 57,266 gross rentable square feet, said measured gross rentable square feet shall then become the gross rentable square feet of the Premises, effective as of the date of the Commencement Date, in which case the Fixed Basic Rent and any other terms or conditions in the Lease that are based on gross rentable square feet in the Premises, including, without limitation, any Additional Rent, shall be adjusted downward to reflect such measured gross rentable square feet in the Premises. Tenant shall promptly execute and deliver to Landlord any amendment to this Lease provided by Landlord that incorporates the foregoing. If needed, additional storage space, beyond the 4,000 square feet storage space indicated above, shall be provided in the garage at no charge to Tenant upon mutual agreement as to location and size, subject to availability of unused space.

7. **TERM** means the period of time beginning on the Commencement Date and ending on the Expiration Date. The “**Initial Term**” means eleven (11) years and four (4) months beginning on the Commencement Date. The Tenant, at its sole option, shall have the option to extend the term of this Lease for up to two (2) additional five-year terms (individually “**Extended Term**”), in accordance with the terms set forth in Section 9.

8. **EXPIRATION DATE** means 11:59 p.m. on the last day of the Initial Term or any applicable Extension Term. The foregoing notwithstanding, if the Commencement Date is other than the first day of a calendar month, the Lease shall expire on the last day of the calendar month in which the Expiration Date occurs, unless sooner terminated pursuant to the provisions hereof.

9. **FIXED BASIC RENT** means the following:

<b>Initial Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 1 through Month 12	\$1,775,246.00	\$147,937.17	\$31.00
Month 13 through Month 24	\$1,819,627.15	\$151,635.60	\$31.78
Month 25 through Month 36	\$1,865,117.83	\$155,426.49	\$32.57
Month 37 through Month 48	\$1,911,745.78	\$159,312.15	\$33.38
Month 49 through Month 60	\$1,959,539.43	\$163,294.95	\$34.22
Month 61 through Month 72	\$2,008,527.92	\$167,377.33	\$35.07
Month 73 through Month 84	\$2,058,741.12	\$171,561.76	\$35.95
Month 85 through Month 96	\$2,110,209.65	\$175,850.80	\$36.85
Month 97 through Month 108	\$2,162,964.89	\$180,247.07	\$37.77
Month 109 through Month 120	\$2,217,039.01	\$184,753.25	\$38.71
Month 121 through Month 132	\$2,272,464.99	\$189,372.06	\$39.68
Month 133 through Month 136	\$2,329,276.62	\$194,106.38	\$40.67
<b>First Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 137 through Month 148	\$2,329,276.62	\$194,106.38	\$40.67
Month 149 through Month 160	\$2,387,508.54	\$198,959.04	\$41.69
Month 161 through Month 172	\$2,447,196.25	\$203,933.02	\$42.73
Month 173 through Month 184	\$2,508,376.16	\$209,031.35	\$43.80
Month 185 through Month 196	\$2,571,085.56	\$214,257.13	\$44.93
<b>Second Extended Term</b>	<b>Annual Rate</b>	<b>Monthly Installments</b>	<b>Annual Per Sq. Ft. Rent</b>
Month 197 through Month 208	\$2,635,362.70	\$219,613.56	\$46.05
Month 209 through Month 220	\$2,701,246.77	\$225,103.90	\$47.20
Month 221 through Month 232	\$2,768,777.94	\$230,731.50	\$48.38
Month 233 through Month 244	\$2,837,997.40	\$236,499.78	\$49.59
Month 245 through Month 256	\$2,908,947.34	\$242,412.28	\$50.83

If the Commencement Date is other than the first day of a calendar month, then the Monthly Installment of Fixed Basic Rent payable by Tenant for such month shall be prorated at the same rental rate payable for the first (1<sup>st</sup>) Monthly Installment listed above, and "Month 1" of the rent grid set forth above shall be deemed to be the first full calendar month following immediately thereafter. Notwithstanding anything hereinabove to the contrary, provided the Lease is in full force and effect and Tenant is not in default hereunder beyond any applicable notice and cure periods, Tenant, commencing with Month 1 of the above rent grid and for each Month thereafter during the Initial Term hereof, shall receive from Landlord a credit in the amount of \$17,513.15 to be applied to each Monthly Installment of Fixed Basic Rent as and when due hereunder (the "Rent Concession"), to reflect the Landlord's rent concession in an amount equal to sixteen (16) months of Fixed Based Rent for the benefit of the Tenant. Tenant shall pay each Monthly Installment of Fixed Basic Rent, less the Rent Concession applicable thereto, as and when due hereunder. The Rent Concession shall not apply to any other sums, including, without limitation, any electric charges and parking fees, Operating Costs or Real Estate Taxes, which shall be paid by Tenant, if applicable, as and when due under the Lease.

10. **ELECTRICITY** shall be furnished to the Premises and paid for by Tenant in accordance with, and subject to, the terms and provisions of Exhibit G attached hereto and made a part hereof.

11. **HVAC-AFTER HOURS CHARGE** is \$52.62 per hour, before 8:00 AM and after 6:00 PM, Monday through Friday, \$74.72 per hour, before 8:00 AM and after 1:00 PM on Saturdays, \$96.82 per hour on Sundays and \$121.02 per hour on holidays. The HVAC After-Hours Charge will not apply to any other holidays not listed on Exhibit E or to any Saturdays as long as Tenant notifies Landlord on or prior to 3:00 on the Friday before any given Saturday, during which Tenant offices are open to conduct normal business operations. The HVAC After-Hours Charge is subject



to reasonable increase from time to time to reflect the increase in the cost of providing such After-Hours HVAC service, upon submission of supporting documentation to Tenant evidencing such increase.

12. **LANDLORD'S BROKER** means RM Friedland, 440 Mamaroneck Avenue, Harrison, NY 10528.

13. **NOTICE ADDRESSES** shall mean the following:

**If to Tenant:**

Westchester County Department of Health  
11 Martine Avenue  
White Plains, NY 10606  
Attention: Commissioner

**With copies to:**

Westchester County Attorney  
148 Martine Avenue, 6<sup>th</sup> Floor  
White Plains, NY 10601

And to:

Director of Countywide Administrative Services and Real Estate  
Office of the County Executive  
148 Martine Avenue, 9<sup>th</sup> Floor  
White Plains, NY 10601  
Attention: Christopher Steers

**If to Landlord:**

c/o Ginsburg Development Companies, LLC  
100 Summit Lake Drive  
Valhalla, NY 10595  
Attention: Douglas Ramsay

**With copies to:**

Ginsburg & Redmond, P.C.  
245 Saw Mill River Road  
Hawthorne, NY 10532  
Attention: Mark D. Ginsburg, Esq.

And to:

Cuddy & Feder LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, New York 10601  
Attention: Thomai Natsoulis, Esq.

14. **PARKING SPACES** means a total of Two Hundred Twenty-Nine (229) reserved parking spaces, inclusive of forty (40) EV Charging Stations.

15. **ANNUAL PARKING FEE** means ONE HUNDRED THIRTY-SEVEN THOUSAND FOUR HUNDRED AND 00/100 DOLLARS (\$137,400.00), which reflects the monthly cost of \$50.00 per month for each parking space. The Annual Parking Fee for each Lease Year after the first Lease Year shall be the sum of the Annual Parking Fee for the immediately preceding Lease Year and an amount equal to two and one-half percent (2.5%) of the Annual Parking Fee for the immediately preceding Lease Year.

16. **Intentionally deleted.**

17. **SECURITY DEPOSIT** means an amount equal ZERO AND 00/100 DOLLARS (\$0.00). No Security Deposit is required under this Lease.

18. **TENANT'S BROKER** means Jones Lang LaSalle Americas, Inc., 330 Madison Avenue, New York, New York 10017.
19. **TENANT'S ACCESS** means seven (7) days per week, twenty-four (24) hours per day access to the Premises.

**DEFINITIONS**

1. **ADDITIONAL RENT** means all money, charges, costs, expenses and fees, other than the Fixed Basic Rent, payable by Tenant to Landlord under this Lease, including, but not limited to, the monies payable by Tenant to Landlord pursuant to Exhibits F and G of this Lease.
2. **WESTCHESTER COUNTY HOLIDAYS** means the holidays shown on Exhibit E.
3. **BUILDING HOURS** means Monday through Friday, 8:00 a.m. to 6:00 p.m., but excluding Westchester County Holidays.
4. **COMMERCIAL PORTION** means the portion of the Building comprising the Premises and any and all areas, parts, equipment and systems of the Building that are part of and/or serve the Premises or any part thereof, as well as any other portions of the Building that are reasonably attributable to any of the foregoing.
5. **COMMON FACILITIES** means and includes the elevator(s); fire stairs; public hallways; public lavatories; all other general Building components, facilities and fixtures that service or are available to the commercial portion, or both the commercial and residential portions, of the Building; air conditioning mechanical rooms; fan rooms; janitors' closets; electrical and telephone closets serving the commercial portion, or both the commercial and residential portions, of the Building; elevator shafts and machine rooms; flues; stacks; pipe shafts and vertical ducts with their enclosing walls; and structural components of the commercial portion, or both the commercial and residential portions, of the Building.

Whenever the word "includes" or "including" is used in this Lease, it means "includes but is not limited to" and "including but not limited to," respectively.

6. **DEFICIENCY** means the difference between (i) Fixed Basic Rent and Additional Rent for the period which otherwise would have constituted the unexpired portion of the Term, and (ii) the net amount, if any, of Rent collected under any reletting effected pursuant to the provisions of this Lease for any part of such period (after first deducting from such rents all reasonable, out-of-pocket expenses incurred by Landlord in connection with the termination of this Lease, Landlord's re-entry upon the Premises and such reletting, including repossession costs, brokerage commissions, reasonable attorneys' fees and disbursements, and necessary repair costs).

7. **EXHIBITS** are the following:

Exhibit A	Location Plan of Premises
Exhibit B	Rules and Regulations
Exhibit C	Work Letter
Exhibit D	Cleaning Services
Exhibit E	Westchester County Holidays
Exhibit F	Tax and Operating Cost Rider
Exhibit G	Electricity Rider
Exhibit H	HVAC Air Quality Specifications
Exhibit I	Flood History Disclosure Form
Exhibit J	Westchester County Board of Legislators and Board of Acquisition and Contracts approvals
Exhibit K	Landlord's Insurance

The Exhibits are attached at the back of this Lease and are a part of this Lease.

8. **LEGAL REQUIREMENTS** means all present and future laws and ordinances of federal, state, municipal and county governments, and rules, regulations, orders and directives of departments, subdivisions, bureaus, agencies or offices of such governments, or any other governmental, public or quasi-public authorities having jurisdiction over the Building, and the directions of any public officer pursuant to law.



9. **INSURANCE REQUIREMENTS** means rules, regulations, orders and other requirements of the New York Board of Fire Underwriters or the New York Fire Insurance Rating Organization or any other similar body performing the same or similar functions and having jurisdiction or cognizance of the Real Property, Building or Premises.

10. **OTHERS IN INTEREST** means MG Westchester GP, Ginsburg Development Companies, LLC, GDC Management, Inc., and their respective affiliates, subsidiaries, designees and agents and the members, managers, shareholders, officers, directors, partners and principals of the foregoing, and any Superior Lessor and any Mortgagee.

11. **PRIME** means the so-called annual prime rate of interest established and quoted by The Wall Street Journal (or its successor), from time to time, but in no event greater than the highest lawful rate from time to time in effect.

12. **PERMITTED USE** means general office use consistent with a first class office building or any uses ancillary to Tenant's business and for any other lawful purposes.

13. **REAL PROPERTY** means the Building, the land upon which the Building stands, together with adjoining parking areas, sidewalks, driveways, landscaping and land.

14. **RELATED FACILITIES** means those improvements constructed upon or adjacent to the Real Property, in the City of White Plains, for the use and benefit of 50 Main Street and 1-11 Martine Avenue and/or 25 Martine Avenue, including, but not limited to, plazas, conference center, cafeteria, fitness center, garage, decks, mall passageways and bridges (if any) and all entranceways and roadways connected thereto.

15. **RENT** shall mean Fixed Basic Rent and Additional Rent.

16. **RESIDENTIAL PORTION** means all areas, portions, equipment and systems of the Building that are not included in, or reasonably attributable to, the Commercial Portion of the Building.

17. **STATE** means the State of New York.

18. **TENANT DELAY** means each of the following:

(a) Tenant's failure to comply with the following time-line:

i. Tenant shall, no later than forty-five (45) calendar days following receipt of the initial draft of the preliminary construction drawings, review and provide comments (if any) to Landlord. Thereafter, Tenant shall review and provide comments (if any) to Landlord with respect to any revisions to the initial construction drawings within ten (10) business days after receiving such revisions;

(b) Tenant's failure to furnish interior finish specifications (i.e., paint colors, carpet selection, etc.) within thirty (30) days of Landlord's written request for same;

(d) Tenant's request for materials, finishes or installations other than Landlord's Building Standard (as hereinafter defined);

(e) Any changes by Tenant in or to the Landlord's Work following Tenant's approval of final plans, except if such changes are required in order for Landlord's Work to comply with the Work Letter or the final plans approved by Tenant, and provided Landlord can substantiate with supporting documentation or evidence that the length of the delay caused by Tenant's Delay adversely affected the timely completion of Landlord's Work; and/or

(f) Any act or omission of Tenant which materially delays the Landlord's Work, provided Landlord can substantiate with supporting documentation or evidence the length of the delay caused by such act or omission of Tenant adversely affected the timely completion of Landlord's Work.

19. **EFFECTIVE DATE**: means the date the Lease is signed by both parties and approved by the Office of the County Attorney

-- End of Basic Lease Provisions and Definitions --

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**TABLE OF CONTENTS**

<b>SECTION 1 LEASE .....</b>	<b>1</b>
<b>SECTION 2 RENT .....</b>	<b>1</b>
<b>SECTION 3 USE AND OCCUPANCY .....</b>	<b>1</b>
<b>SECTION 4 CARE AND REPAIR OF PREMISES .....</b>	<b>2</b>
<b>SECTION 5 CONDITION OF PREMISES; DELIVERY; LANDLORD’S WORK .....</b>	<b>4</b>
<b>SECTION 6 ALTERATIONS, ADDITIONS OR IMPROVEMENTS .....</b>	<b>5</b>
<b>SECTION 7 ASSIGNMENT AND SUBLEASE.....</b>	<b>8</b>
<b>SECTION 8 COMPLIANCE WITH RULES AND REGULATIONS.....</b>	<b>10</b>
<b>SECTION 9 DAMAGES TO BUILDING.....</b>	<b>10</b>
<b>SECTION 10 EMINENT DOMAIN .....</b>	<b>11</b>
<b>SECTION 11 REMEDIES ON DEFAULT .....</b>	<b>11</b>
<b>SECTION 12 RE-ENTRY AND REMEDIES ON TENANT’S DEFAULT .....</b>	<b>12</b>
<b>SECTION 13 DEFICIENCY .....</b>	<b>13</b>
<b>SECTION 14 QUIET ENJOYMENT/SUBORDINATION.....</b>	<b>14</b>
<b>SECTION 15 SECURITY DEPOSIT .....</b>	<b>15</b>
<b>SECTION 16 RIGHT TO CURE OTHER’S BREACH.....</b>	<b>15</b>
<b>SECTION 17 LIENS .....</b>	<b>15</b>
<b>SECTION 18 RIGHT TO INSPECT AND REPAIR.....</b>	<b>15</b>
<b>SECTION 19 SERVICES TO BE PROVIDED BY LANDLORD .....</b>	<b>15</b>
<b>SECTION 20 TENANT’S ESTOPPEL .....</b>	<b>16</b>
<b>SECTION 21 HOLDOVER TENANCY .....</b>	<b>17</b>
<b>SECTION 22 OVERDUE RENT CHARGE/INTEREST .....</b>	<b>17</b>
<b>SECTION 23 INSURANCE.....</b>	<b>17</b>
<b>SECTION 24 SURRENDER .....</b>	<b>19</b>
<b>SECTION 25 WAIVERS .....</b>	<b>19</b>
<b>SECTION 26 TENANT’S PROPERTY .....</b>	<b>19</b>
<b>SECTION 27 CHANGES TO PREMISES/BUILDING. ....</b>	<b>20</b>
<b>SECTION 28 LIABILITY/INDEMNITY .....</b>	<b>20</b>
<b>SECTION 29 BROKER.....</b>	<b>21</b>
<b>SECTION 30 NOTICES .....</b>	<b>21</b>
<b>SECTION 31 AUTHORITY.....</b>	<b>21</b>
<b>SECTION 32 PARKING SPACES .....</b>	<b>22</b>
<b>SECTION 33 HAZARDOUS SUBSTANCES.....</b>	<b>23</b>
<b>SECTION 34 SIGNAGE.....</b>	<b>24</b>
<b>SECTION 35 ACCESS/SECURITY .....</b>	<b>24</b>
<b>SECTION 36 FLOOD HISTORY DISCLOSURE FORM .....</b>	<b>25</b>
<b>SECTION 37 RIGHT OF FIRST OFFER .....</b>	<b>25</b>
<b>SECTION 38 TITLE REPRESENTATIONS .....</b>	<b>26</b>
<b>SECTION 41 MISCELLANEOUS .....</b>	<b>26</b>

## **GENERAL CONDITIONS**

### **SECTION 1** **LEASE**

Landlord has leased the Premises to Tenant for the Term, subject to the terms and provisions hereof, together with the right to utilize in common with others, the, elevators, parking areas and other public portions of the Real Property and commercial portion of the Building. Nothing herein contained shall be construed as a grant or demise to Tenant of the roof or exterior walls of the Building, of the space between the drop ceiling and floor or roof above, and below the floor of, the Premises, and/or of any parking or other areas adjacent to the Building, except that Tenant may use space on the roof of the Building for Tenant's installation, operation and maintenance of satellite dishes, antennas, communication equipment and other systems, including, but not limited, to an emergency generator, supporting Tenant's business and operations at the Premises, at no additional rent, fee or charge to Tenant, at locations reasonably agreed by the parties, in accordance with all applicable laws, rules and regulations and municipal codes, provided that: (a) at Landlord's election, but, in any event at Tenant's sole cost, either Landlord or Tenant shall maintain such equipment in good working order and condition; (b) the installation and operation of such equipment does not damage the roof of the Building or void any roof warranty; and (c) at the expiration or earlier termination of the Term, at Tenant's election, but, in any event at Tenant's sole cost, either Landlord or Tenant shall remove same from the roof of the Building and restore the roof to the condition existing prior to such installation, subject to reasonable wear and tear.

### **SECTION 2** **RENT**

Commencing on the Commencement Date, Tenant will pay Landlord: (A) the Fixed Basic Rent when due, in lawful money of the United States, without notice or demand and, subject to the Rent Concession, without abatement, deduction or set-off, except as otherwise expressly set forth herein, at the Monthly Installments set forth in the Basic Lease Provisions in advance on the first day of each month, at Landlord's address set forth in the first paragraph of this Lease, or at such other place as Landlord may designate in writing; except that: (i) the monthly installment of Fixed Basic Rent and Parking Space charge due in respect of the first full calendar month following the Commencement Date shall be paid within thirty (30) days from execution hereof; and (ii) the prorated monthly installment of Fixed Basic Rent and Parking Space charge due in respect of the partial calendar month, if any, between the Commencement Date and the first day of the first calendar month following the Commencement Date shall be paid within fifteen (15) days from the Commencement Date; and (B) Additional Rent consisting of all other sums of money as and when the same become due and payable by Tenant to Landlord hereunder (for default in payment of which Landlord shall have the same remedies as for a default in payment of Fixed Basic Rent). At Landlord's option, upon notice to Tenant, Tenant will pay the Fixed Basic Rent and Additional Rent by electronic transfer. Except as expressly provided herein, all Additional Rent not otherwise set forth on the Tax and Operating Costs Rider annexed hereto shall be due and payable thirty (30) days following demand therefor. In the event the Commencement Date shall be a date other than the first day of a calendar month, the first monthly installment of Basic Fixed Rent due after the Commencement Date shall be pro-rated accordingly.

### **SECTION 3** **USE AND OCCUPANCY**

(a) Tenant will use the Premises solely for the Permitted Use and other related and/or ancillary uses. Tenant shall have the right to use vendors of its choice to cater functions within the Premises provided Tenant and such vendors comply with the terms of this Lease, including the rules and regulations. Tenant shall also have the right to install vending machines and typical small pantry microwave ovens for use by Tenant and Tenant's employees and invitees within the Premises, provided that same shall be used in accordance with the terms of this Lease. Anything in this Lease to the contrary notwithstanding, Tenant shall not at any time operate an office suite business in the Premises or any part thereof. For the purpose of this subparagraph, the term "office suite business" shall mean offering furnished office units of space with or without any related office services, including, without limitation, telephone answering, photocopying, facsimile, package handling and secretarial services office suite business.



(b) Tenant shall not permit the Premises to be used in any manner which would in any way (i) violate any of the provisions of any lease or mortgage to which this Lease is subordinate, (ii) violate the certificate of occupancy for the Premises or the Building or any laws or requirements of public authorities, (iii) make void or voidable any fire or liability insurance policy then in force with respect to the Building, (iv) constitute a public or private nuisance, (v) discharge objectionable fumes, vapors or odors into the Building's heating, ventilating and air conditioning systems, or (vi) impair or interfere with any of the Building services or the proper and economic heating, air conditioning, cleaning or other servicing of the Building or the Premises or impair or interfere with the use of any other areas of the Building.

(c) Tenant shall not place any load upon any floor of the Premises which exceeds the load for which it was designed and which is allowed by certificate, rule regulation, permit or law.

(d) If any government license or permit, other than a certificate of occupancy, shall be required for the lawful conduct of Tenant's business in the Premises, or any part thereof and if failure to secure such license or permit would in any way affect Landlord, then Tenant, at its expense, shall procure and thereafter maintain such license or permit and submit the same for inspection by Landlord. Tenant shall comply with the terms and conditions of each such license or permit, but the failure to procure and maintain same shall not affect Tenant's obligations hereunder.

#### **SECTION 4** **CARE AND REPAIR OF PREMISES**

(a) Landlord shall manage, maintain and operate the Building consistent with a "Class A Building" in Westchester County. Landlord shall maintain two (2) full time personnel who will professionally manage the daily operations of the Real Property and Related Facilities in compliance with the highest standards, applicable laws, rules and regulations, ordinances, directives, covenants, easements and restrictions of record, permits, building codes and the requirements of the Americans with Disabilities Act or any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect. The Landlord shall, at its own cost and expense, provide security to the Real Property comprised of a manned security station within the parking garage between the hours of Monday through Friday 7:00 am through 10:00 pm, a roving security patrol and Closed-Circuit Television (CCTV) monitors (2 in the lobby and 13 in the parking garage at street level, entrances/exits loading dock and stairwells), consistent with its existing practices, and any other security measures Landlord may reasonably determine from time to time to ensure a clean, safe, secure and well-maintained environment for all its tenants. Notwithstanding the foregoing to the contrary, it is hereby understood by the parties that Tenant, at Tenant's cost, may take any additional security measures, including installation of security equipment or otherwise to provide supplemental security to the Premises, including the lobby that services exclusively the Premises.

(b) Landlord represents, covenants and warrants that the roof and all other structural elements of the Building, the Premises, all Common Facilities, the parking garage, all Building systems, including, but not limited to HVAC, mechanical, ventilating, heating, electrical, lighting, plumbing, fire and life safety systems serving the Premises and/or the Building are in good repair and condition as of the Commencement Date and have a useful life extending beyond the Extension Terms.

(c) The Landlord shall, as part of Operating Costs, operate and maintain the Real Property, including the Building's roof and all other structural elements of the Building (including windows, window frames, doors, door frames, storefronts, etc.), the parking garage, the Common Facilities and all Building systems including, but not limited to HVAC, mechanical, ventilating, heating, electrical, lighting, plumbing, fire and life safety systems serving the Premises and/or the Building in good order and condition, in compliance with all Legal Requirements and this Lease. In the event the Real Property, including the Building's roof and all other structural elements of the Building, all Common Facilities, the parking garage, all Building systems, including, but not limited to HVAC, mechanical, ventilating, heating, electrical, lighting, plumbing, fire and life safety systems serving the Premises and/or the Building require maintenance or repairs during the Term, Landlord, shall, as part of

Operating Costs, maintain or repair said structural or non-structural elements. It is hereby understood and acknowledged by the Landlord that any capital improvements completed by the Landlord at the Real Property during the Term of the Lease shall be at Landlord's sole cost and expense and shall not be included as Operating Costs, unless same is due to Tenant's gross negligence or willful misconduct, in which event Tenant will be responsible for such capital expense.

(d) Landlord shall permit Tenant's authorized representative to conduct a Building Condition Assessment prior to the Commencement Date, in order to assess any physical deficiencies, defects, violations, code compliance issues with respect to the structural elements of the Building, the Premises, all Common Facilities, the parking garage and all Building systems. The Landlord agrees to repair, at its own cost and expense, any deficiencies, defects, violations, issues that would materially interfere with Tenant's ability to access and use the Premises for its intended purpose within a scheduled program approved by Landlord and Tenant.

(e) Intentionally deleted.

(f) Tenant will not commit any act that damages the Premises or Building and will take good care of the Premises, and will comply with all Legal Requirements affecting the Premises or the Tenant's use and/or occupancy of the Premises. Tenant, at Tenant's sole cost and expense, shall make all repairs and replacements, as and when necessary, to the Premises and Tenant's personal property and any non-structural alterations, including, without limitation, any non-standard-office improvements (as defined herein) made or performed by or on behalf of Tenant. The foregoing to the contrary, it is hereby understood and acknowledge by the parties that the Landlord's Work does not constitute non-standard-office improvements for the purposes herein. Landlord will make all necessary repairs to the Common Facilities including, without limitation, the portion thereof as may be located in the Premises such as, for example structural elements of the Building. The cost of repairs to the Common Facilities will be included in Operating Costs, except where the repair has been made necessary by misuse or neglect by Tenant or Tenant's agents, employees, contractors, invitees, visitors or licensees (collectively, "**Tenant's Agents**"), in which event Landlord will nevertheless make the repair but Tenant will pay to Landlord, as Additional Rent within thirty (30) days of written notice thereof, the cost incurred by Landlord to complete such repairs. Except as to any repair made necessary by misuse or neglect by Tenant or any of Tenant's Agents, only the pro-rated percentage of the cost of repairs to Common Facilities that serve both the Residential Portion and Commercial Portion of the Building, will be included in Operating Costs. Notwithstanding the foregoing herein, at Tenant's election and at its sole cost and expense, upon Tenant's reasonable request, Landlord agrees to perform certain necessary routine maintenance in the Premises, including, replacing light bulbs and ballast, replacing damaged ceiling, restroom or floor tiles and fixtures, repairing or replacing toilets, sinks and pipes, as necessary for the Tenant's intended use of the Premises.

(g) Except during the hours when the HVAC-After Hours Charge is due or otherwise waived (unless such charge is paid in accordance with the terms of this Lease) and during Westchester County Holidays, Landlord shall operate the HVAC systems in accordance with minimum cooling requirements for similar commercial spaces as the Premises and Tenant's minimum air quality standards and specifications set forth in Exhibit H, and otherwise in compliance with all laws, rules and regulations regarding same, including design specifications of the systems and energy conservations requirements of all governmental authorities and this Lease. Tenant shall be able to control the HVAC unit(s) by means of one or more thermostats to be located in each floor of the Premises.

(h) In addition to any supplemental HVAC systems required to be installed by Landlord pursuant to the Work Letter set forth in Exhibit C, Tenant may request Landlord to install, repair, maintain and operate seven (7) days per week, twenty-four (24) hours per day additional or supplemental HVAC systems, appliances and equipment serving the Premises, at Tenant's sole cost and expense (except for hook-up, or connection charges, which Landlord shall not charge) and, in such event: (i) such supplemental equipment will be located in a place mutually agreed upon between Landlord and Tenant and in compliance with all applicable laws, rules and municipal codes; (ii) and at the expiration or earlier termination of the Term, at Tenant's election, but, in any event at Tenant's sole cost, either Landlord or Tenant shall remove same from the Premises and restore same to the condition existing prior

to such installation, subject to reasonable wear and tear. Landlord does not recommend the installation or operation of a dishwasher within the Premises given their inherent risks; therefore, in the event Tenant installs a dishwasher, Landlord will, at Tenant's request and at Tenant's sole cost and expense, install and maintain a leak sensor and auto shut off valve equipment. Tenant assumes full risk and responsibility for the installation and operation of a dishwasher in the Premises and agrees to indemnify, release and hold harmless, Landlord, its agents, employees, contractors, tenants, occupants and invitees from any and all claims, liabilities, injuries, losses, damages, or expenses of whatever nature or kind, that in any way arise from the dishwasher, including, but not limited to, any and all claims concerning leaks, mildew, mold or mold-like infestation within the Premises and/or Building. In furtherance of the foregoing, such indemnification shall include but not be limited to, any claims by Landlord with respect to damage to the Common Facilities of the Building, as well as claims by other tenants of the Building for damage to the premises occupied by such other tenants and the personal property located therein, resulting from the installation and operation of the dishwasher or resulting from any leak or other malfunctioning of the dishwasher resulting from the installation or operation of the dishwasher following the date of this Lease. In the event that, in the sole and exclusive opinion of Landlord or as may be required by legal requirements, remediation of any mildew, mold or mold-like infestation in the Premises and/or the Building is required, Landlord shall make all necessary repairs to the Premises and/or the Building, as the case may be, at Tenant's sole and exclusive cost and expense. Landlord assumes no responsibility whatsoever for Tenant's installation and use of a dishwasher and Tenant hereby agrees to assume all responsibility, costs and expenses in connection with Tenant's use of a dishwasher, including any and all maintenance, repairs or replacements to the dishwasher. Landlord shall provide cleaning services to the Premises as set forth in this Lease, however, Landlord shall not be responsible for running, emptying or cleaning the dishwasher.

## **SECTION 5**

### **CONDITION OF PREMISES; DELIVERY; LANDLORD'S WORK**

(a) Landlord agrees that, prior to the Commencement Date, it will perform at Landlord's sole cost work in the Premises in accordance with, and to the extent provided in, Exhibit C of this Lease (the "**Work Letter**"). The work to be performed by Landlord as provided in the Work Letter, which shall include also renovated and operational restrooms in floors 14<sup>th</sup> and 15<sup>th</sup>, using similar design and material standards as used in the recent renovation of the 12<sup>th</sup> floor restrooms, is herein referred to as "**Landlord's Work**". The Landlord shall commence the Landlord's Work no later than thirty (30) days from receipt of all necessary approvals and proceed with diligence to complete such work as soon as reasonably possible, subject to Tenant's Delay and Force Majeure, in accordance with all laws, codes, rules and regulations applicable thereto, the final plans and specifications approved by Tenant, the Work Letter and all other applicable provisions of this Lease. Except as otherwise expressly provided in this Lease, Landlord shall not be obligated to perform any other work in or to the Premises other than Landlord's Work.

(b) The Landlord represents, warrants and covenants to the Tenant that (i) the representations made in Paragraph "FOURTEEN," subparagraph (b) with respect to the new refinancing of the Real Property with Anticipated Mortgagee (as defined therein) are true and accurate and a material element of this Lease; and (ii) in the event such refinancing with the Anticipated Mortgagee does not occur within thirty (30) days from the Effective Date, the Landlord has sufficient funds readily available to commence the Landlord's Work no later than thirty (30) days from receipt of all necessary approvals and proceed with diligence to complete such work as soon as reasonably possible, subject to Tenant's Delay and Force Majeure, in accordance with the approved plans, the Work Letter and all applicable laws, subject to Tenant's Delay and Force Majeure.

(c) Intentionally deleted.

(d) In addition, within sixty (60) days from the Effective Date, Landlord shall, at Landlord's expense, obtain and deliver to Tenant copies of all permits, approvals and authorizations of any Governmental Authority to perform the Landlord's Work, as reasonably required by Tenant.



(e) Following completion of Landlord's Work, Landlord shall promptly deliver the Premises to Tenant in good operating order in compliance with the Work Letter, the approved final plans, and this Lease. Landlord further represents and warrants to Tenant, as of the Commencement Date, that Landlord has no actual knowledge of any claim having been made by any governmental agency that a violation of applicable building codes, regulations, or ordinances exists with regard to the Real Property, or any part thereof.

(f) In addition, within ninety (90) days following completion of Landlord's Work, Landlord shall, at Landlord's expense, obtain and deliver to Tenant copies of all final approvals, certificates and copies of "as-built" plans and specifications signed by a licensed professional as reasonably required by Tenant

(g) Landlord agrees that, in the event the Landlord has not completed the Landlord's Work in accordance with the Work Letter, all laws, codes, rules and regulations applicable thereto, the final plans and specifications approved by Tenant and all other applicable provisions of this Lease, within two hundred and seventy (270) days following the Effective Date, which 270 period may be extended by the number of days corresponding to the Tenant's Delay and/or Force Majeure, Landlord shall pay Tenant a rent credit equivalent to two (2) gross days for each and every day of delay following said 270-day period in completing the Landlord's Work, provided, however, in the event the Landlord's Work is not completed within 365 days following the Effective Date, which 270 period may be extended by the number of days corresponding to the Tenant's Delay and/or Force Majeure, Tenant shall have the right to either terminate the Lease or to complete Landlord's Work in accordance with the Work Letter and the approved final plans, at Landlord's sole cost and expense, without any further liability whatsoever, except with respect to those obligations that survive the earlier termination of the Lease. It is understood and agreed by and between the parties that the representations set forth in this paragraph are a material element of this Lease.

(h) Landlord's Work shall be construed "Substantially Complete" and the Term shall commence, when Tenant's authorized representative has provided written notice of acceptance of the Premises, with Landlord's Work completed, subject to minor details of construction or decoration that do not adversely affect Tenant's ability to occupy the Premises. Tenant may request that Landlord delivers to Tenant all applicable building department and fire department inspection signoffs including a new certificate of occupancy for the Premises, an air balancing report certified by Landlord's engineer and a certification from Landlord's engineer that the electric meters or submeters have been correctly installed and are in good working order, prior to accepting the Premises.

(i) Within thirty (30) after the Premises is Substantially Complete, Tenant will identify and list any portion of Landlord's Work which does not conform to the Work Letter attached hereto (the "**Punch List**"). The Punch list shall be approved in writing by Landlord, in its sole, but reasonable, discretion, within ten (10) days of Landlord's receipt of said Punch List, and thereafter, Landlord shall use reasonable efforts to commence the performance of the items on such Punch List within thirty (30) days after Tenant receives from Landlord its written approval of said Punch List, and proceed with reasonable diligence in the completion thereof. In addition, the parties (or anyone having rights under or through Tenant or Landlord) shall coordinate efforts in order to permit Tenant to occupy all or a portion of the Premises for the purpose of installing any necessary systems, equipment, wiring and other appurtenant equipment necessary for the conduct of Tenant's business at the Premises (provided Tenant will not conduct any daily routine business during such period) while Landlord completes the Landlord's Work, and such use shall not constitute occupancy of all or any part of the Premises by Tenant for the purposes herein, provided however, (x) in no event shall Landlord provide a period less than thirty (30) days prior to the estimated date the Premises will be Substantially Complete for Tenant to complete the necessary systems and wiring installation work, and (y) in no event shall Tenant's contractors and subcontractors adversely affect the Landlord in its efforts to timely complete the Landlord's Work, or adversely interfere with any other tenant, guest or visitor of the Building.

(j) Notwithstanding anything contained in this Lease to the contrary, including, without limitation, Section 5 in the Basic Lease Provisions, except as set forth in subparagraph (c), if Landlord is delayed in delivering possession of the Premises to Tenant due to a Tenant Delay or other reason attributable to Tenant, this Lease will not be void or voidable, nor will Landlord be liable to Tenant for any loss or damage resulting therefrom, but in that event, the



Term will commence on the earlier of: (i) the date Landlord delivers possession of the Premises to Tenant, provided the Premises(ii) the date Landlord would have delivered possession of the Premises to Tenant but for any reason attributable to Tenant including, without limitation, any Tenant Delay or (iii) the date Tenant occupies, uses or takes possession of, all or any part of the Premises.

(k) When the Commencement Date has been determined, Landlord and Tenant shall, upon the request of either of them, execute and deliver to each other duplicate originals of a Commencement Date statement prepared by Landlord which shall specify the Commencement, Rent and Expiration Dates of the Term. Upon execution and delivery of the Commencement Date statement it shall be deemed a part of this Lease. Any failure of Tenant to execute such statement shall not affect Landlord's determination of the Commencement Date, and such statement shall be deemed approved and accepted if not received back by Landlord, or objected to by written notice to Landlord, within thirty (30) days of submission by Landlord.

## **SECTION 6**

### **ALTERATIONS, ADDITIONS OR IMPROVEMENTS**

(a) Tenant shall make no alterations, additions, installations or improvements or other changes in or to the Premises of any nature (collectively, "**Tenant Alterations**") without Landlord's prior written consent, which Landlord's consent shall not be unreasonably withheld, conditioned or delayed except that Landlord's written consent shall not be required for those Tenant Alterations that are aesthetic or cosmetic in nature, or that do not affect any part of the Building outside the Premises, affect any structural element of the Building, or affect any Building system, and do not cost more than \$250,000.00 within any consecutive six (6) month period.

(b) All Tenant Alterations shall be performed, at Tenant's expense, by Tenant's contractors and subcontractors, in a professional manner using materials of first class quality, in compliance with this Lease, all Legal Requirements and Tenant's Plans (as hereinafter defined) and in a manner that will not materially interfere with the business of Landlord or any other tenant or occupant of the Building. Landlord's consent to any Tenant Alterations, shall be upon such reasonable conditions as Landlord may impose and such consent shall not be unreasonably withheld or delayed. Landlord or its agent shall have the right to inspect the Premises to confirm that any Tenant Alterations are being performed in accordance with the terms hereof. Landlord's review, inspection and/or approval of any Tenant Alterations, including, without limitation, any plans, specifications and/or documents in connection therewith, shall not be construed as a representation, warranty or statement by Landlord that any work to be performed by Tenant in the Premises is in compliance with applicable Legal Requirements or is otherwise properly designed or efficacious for Tenant's intended purpose or constitute an assumption of any liability whatsoever on the part of Landlord for their accuracy, all of which shall be the sole responsibility of Tenant.

(c) Tenant, before making any Tenant Alterations, shall, at Tenant's expense, (i) deliver to Landlord, detailed plans and specifications for any Tenant Alterations in form reasonably satisfactory to Landlord prepared and certified by a registered architect or licensed engineer, and suitable for filing with any applicable governmental, public or quasi-public authorities having jurisdiction over such Tenant Alterations (each a "**Governmental Authority**"), if filing is required by applicable Legal Requirements ("**Tenant's Plans**"), (ii) obtain Landlord's written approval of Tenant's Plans, as more particularly detailed in subparagraph (d) below, (iii) obtain (and deliver to Landlord copies of) all permits, approvals, certificates and authorizations required by any Governmental Authority, (iv) obtain (and deliver to Landlord evidence in form reasonably acceptable to Landlord) worker's compensation insurance (covering all persons to be employed by Tenant, and all contractors and subcontractors performing any Tenant Alterations), commercial general liability insurance and Builder's risk insurance (issued on a completed value basis), in form, with companies, for periods and in amounts reasonably required by Landlord, naming Landlord, Landlord's managing agent, if any, and any Mortgagee as additional insureds, or in the alternative to such insurance requirements, provide evidence of self-insured status. It is hereby understood and acknowledged by Landlord that Tenant shall not reimburse Landlord for any out-of-pocket expenses incurred by Landlord in connection with Landlord's review of Tenant's Plans and inspection of any Tenant Alterations, including outside experts and

professionals retained by Landlord for that purpose. Following the completion of any Tenant Alterations, Tenant shall, at Tenant's expense, obtain and deliver to Landlord copies of all final approvals, certificates and authorizations of any Governmental Authority required upon the completion of such Tenant Alterations and "as-built" plans and specifications for such Tenant Alterations prepared, as reasonably required by Landlord.

(d) Landlord shall within ten (10) days of receipt of Tenant's Plans approve or disapprove same. In the event Landlord does not approve or disapprove the Tenant's Plans within said ten (10) day period, Tenant shall provide a second written notice to Landlord requesting approval of said Tenant's Plans. If Landlord fails to approve or disapprove the Tenant's Plans within three (3) business days, the Tenant's Plans shall be deemed approved by Landlord.

(e) Landlord shall cooperate with Tenant in all reasonable respects in connection with the approval and completion of Tenants' Alterations, including executing any required permit or government application(s) and forms prior to reviewing and approving Tenant's Plans, in order to assist Tenant to complete the Tenant's Alterations in an expedited manner.

(f) Tenant shall perform the Tenant's Alterations during normal business hours, Monday through Friday, from 8:00 am to 6:00 pm EST.

(g) Tenant shall supervise its contractors, subcontractors or other workers in the Premises, in connection with any Tenant Alterations, to ensure that such contractors, subcontractors or other workers do not unreasonably interfere or cause conflict with other contractors, subcontractors or workers in the Building. Tenant shall have sole responsibility for management and oversight of any Tenant Alterations and shall contract directly with contractors for all such work, including, but not limited, to engineers and architects, provided such contractors have been approved in writing by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed.

(h) If, in connection with any Tenant Alteration or any other act or omission of Tenant or Tenant's employees, agents or contractors, any mechanic's lien, financing statement or other lien or violation is filed against Landlord, or any part of the Premises, the Building, or Tenant Alterations, Tenant shall, at Tenant's expense, have it removed by bonding or otherwise within sixty (60) days thereafter. If Tenant shall fail to remove any lien within such 60-day period, Landlord may discharge such lien by payment, bonding or otherwise in Landlord's discretion, without any investigation as to, and regardless of whether Tenant may dispute, the validity thereof, and Tenant, upon demand, shall promptly reimburse Landlord for all costs, including, without limitation, attorneys' fees, incurred in connection therewith.

(i) All alterations, installations, additions and improvements, including, without limitation, all fixtures and all paneling, partitions, railings and like installations, installed in the Premises at any time, either by Tenant or by Landlord on Tenant's behalf, shall, upon installation, become the property of Landlord and shall remain upon and be surrendered with the Premises unless Landlord, by notice to Tenant no later than ninety (90) days prior to the Expiration Date (or thirty (30) days prior to any earlier termination of the Lease, if applicable), elects to relinquish Landlord's right thereto and to have them removed by Tenant, in which event the same shall be removed from the Premises by Tenant prior to the expiration of this Lease, at Tenant's expense. Not later than the last day of the Term, Tenant will, at Tenant's expense, remove from the Building all of Tenant's Property (as hereinafter defined) and those alterations, installations, additions and improvements, which Landlord has elected by notice to Tenant not to relinquish as Landlord's property, including all moveable furniture, trade fixtures (other than built-in cabinet work), moveable partitions, telephone, computer, data and antenna wiring, cabling and related conduit (to the extent said wiring, cabling, and conduits are not behind walls or sheetrock, above ceilings, or below flooring) and the like. Tenant, immediately and at its expense, shall repair all injury done by or in connection with the installation or removal of said property, alterations, improvements, wiring and the like; cap or terminate all telephone, computer and data connections at service entry panels in accordance with Legal Requirements; and surrender the Premises in as good condition as they were at the beginning of the Term, except for reasonable wear and tear and casualty excepted. Notwithstanding anything contained herein to the contrary, Tenant shall remove all installations that are "**non-standard office improvements**". For purposes hereof, "non-

standard office improvements” shall mean raised flooring, interior staircases, vaults, elevators, modifications to the Building’s utility and mechanical systems and unusual configuration for first class office space. All property permitted or required to be removed by Tenant at the end of the Term remaining at the Premises more than thirty (30) days following the expiration or earlier termination of the Lease shall be deemed abandoned and may be retained or disposed of by Landlord at Tenant’s expense and as Landlord, in its sole discretion, shall determine without any accountability or liability whatsoever to Tenant, and Tenant hereby releases Landlord from all claims for loss or damage to such property arising out of such retention or disposition thereof.

(j) If Tenant shall request the consent or approval of Landlord to the making of any alterations or to any other thing, and Landlord shall seek and pay a separate fee for the opinion of Landlord’s counsel, architect, engineer or other representative, professional or agent as to the form or substance thereof, Tenant shall pay Landlord, as Additional Rent, within thirty (30) days after demand, all reasonable costs and expenses of Landlord incurred in connection therewith, provided, however, that Tenant shall not be obligated to reimburse Landlord for any costs and expenses of Landlord in reviewing plans and specifications and performing inspections with respect to any Tenant’s Alterations.

(k) In carrying out any Tenant Alterations, Tenant shall comply with the provisions of this Section 6 inclusive, and shall perform same in accordance with the final plans and specifications approved by Landlord therefor and all other applicable provisions of this Lease. If Tenant shall fail to comply with the foregoing, Landlord may, at its election, in addition to all other rights and/or remedies available to it under this Lease or at law or in equity (i) direct Tenant to immediately cease and desist all further work. In the event the Tenant does not cease work and address any issues or violations claimed by Landlord within a reasonable period of time, Landlord may, upon thirty (30) days’ notice to Tenant, perform the work or installation(s) required of Tenant, at Tenant’s sole but reasonable cost and expense, together with a sum equal to five percent (5%) for overhead due and payable as Additional Rent on demand, if Tenant does not cease.

(l) Landlord shall not impose any additional charges or fees for connecting Tenant’s supplemental air-conditioning equipment, sprinklers and other systems in connection with Tenant’s Alterations.

(m) Tenant shall indemnify and hold harmless Landlord from and against any and all claims, losses, damages, liabilities, costs, expenses and suits whatsoever made or asserted against Landlord or any affiliate of Landlord or any officer, director, shareholder, member, manager, principal, employee, agent or representative of Landlord or such affiliate in connection with or by reason of any Tenant’s Alterations and/or any breach of any obligation of Tenant contained in this Section 6, including, without limitation, from and against any and all bills for labor performed and/or equipment, fixtures and materials furnished to Tenant and any and all liens or claims therefor against Landlord or against the Premises or the Building. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

## **SECTION 7**

### **ASSIGNMENT AND SUBLEASE**

Tenant will not, by operation of law or otherwise, mortgage, pledge, assign or otherwise transfer this Lease or sublet all or any portion of the Premises in any manner except as specifically provided for in this Section 7:

(a) Tenant may assign this Lease or sublet the whole or any portion of the Premises, subject to Landlord’s prior written consent, which consent will not be unreasonably withheld, conditioned or delayed, pursuant to the following terms and conditions and provided the proposed occupancy is in keeping with that of a first-class office building:

(i) Tenant will provide to Landlord the name, address, nature of the business and evidence of the financial condition of the proposed assignee or sublessee;

(ii) The assignee will assume, by written instrument reasonably acceptable to Landlord and Tenant, all of the obligations of the Tenant under this Lease, and a copy of such



assumption agreement will be furnished to Landlord within thirty (30) days of its execution, in which event Tenant shall be released from its obligations to Landlord under this Lease, and Landlord shall have the right to look solely to the assignee for the full performance of the terms under this Lease. No further assignment of this Lease or subletting of all or any part of the Premises will be permitted;

(iii) Each sublease shall be subject and subordinate to this Lease and to the matters to which this Lease is or will be subordinate, each sublessee's rights will be no greater than those of Tenant, and in the event of default by Tenant under this Lease, Landlord may, at its option, have such sublessee attorn to Landlord provided, however, in such case Landlord will not (i) be liable for any previous act or omission of Tenant under such sublease or, (ii) be subject to any offset not expressly provided for in this Lease or by any previous prepayment of more than one month's rent. Any sublease shall terminate automatically upon the expiration or, unless Landlord elects to have such sublessee attorn to Landlord as aforesaid, termination of the Lease. Each sublease shall expressly include all of the foregoing, although inclusion in any sublease shall not be necessary to give full force and effect to any of the terms and conditions hereof. A copy of each such sublease will be furnished to Landlord within ten (10) days of its execution;

(iv) The acceptance by Landlord of any rent from the assignee or from any subtenant or the failure of Landlord to insist upon strict performance of any of the terms, conditions and covenants of this Lease will not release either Tenant or any assignee assuming this Lease from the Tenant's obligations set forth in this Lease, unless and until Landlord has received a copy of the assumption agreement from assignee;

(v) The proposed assignee or subtenant is not then an occupant of any part of the Building or any other building then owned by Landlord or its affiliates within a five-mile radius of the Building;

(vi) The proposed assignee or subtenant is not an entity or a person or an affiliate of an entity with whom Landlord is or has been, within the preceding six (6) month period, negotiating to lease space in the Building;

(vii) There will not be more than one (1) subtenant in the Premises;

(viii) There shall be no advertisement, public communication or listing of the availability of the Premises for subletting without the prior written consent of Landlord, which shall not be unreasonably withheld; it being specifically understood that it shall not be unreasonable for Landlord to deny its consent if any advertisement or public communication shall list the rental rate in any way or shall adversely reflect on the dignity, character or prestige of the Building;

(ix) Tenant will pay Landlord a TWO THOUSAND FIVE HUNDRED AND 00/100 DOLLAR (\$2,500.00) administrative fee for each request for consent to any sublet or assignment simultaneously with Tenant's request for consent to a specific sublet or assignment;

(x) No assignment or subletting shall be to a person or entity which, in Landlord's reasonable judgment, has a financial standing, is of a character, is engaged in business, is of a reputation, or proposes to use the Premises in a manner, not in keeping with the standards in such respects of the other tenancies of the Building;

(xi) Any part of the term of any such sublease or any renewal or extension thereof, which shall extend beyond a date one (1) day prior to the expiration or earlier termination of the term, shall be a nullity; and

(xii) The proposed assignee or subtenant will use the Premises for the Permitted Use only.

(b) Any transfer by operation of law or otherwise, of Tenant's interest in this Lease, shall be deemed an assignment of this lease within the meaning of this Section 7 and shall not be valid and binding upon Landlord.

(c) If this Lease shall be assigned, whether or not in violation of the provisions of this Lease, Landlord may (but need not) collect rent from the assignee. If the Premises or any part thereof be sublet or occupied by anyone other than Tenant, Landlord may (but need not), after default by Tenant and expiration of Tenant's time to cure such default, collect rent from the subtenant or occupant. In either event, Landlord may apply the net amount collected to the

rents herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed waiver of the requirements hereof, or the acceptance of the assignee, subtenant or occupant as Tenant hereunder, or a release of Tenant from the further performance by Tenant of Tenant's obligation under this Lease.

(d) Notwithstanding anything contained in this Lease to the contrary, so long as Tenant is not in default of any of the terms, covenants, conditions, provisions and agreements of this Lease, beyond any applicable cure periods, Tenant may assign this Lease or sublet all or any portion of the Premises without Landlord's consent to any other department or office of the Tenant directly or indirectly controlling or controlled by Tenant or under common control with Tenant (a "**Permitted Transfer**") provided that any such transfer is for a valid business purpose and not principally for the purpose of transferring the leasehold for a profit or to a shell entity and further provided that (1) the Tenant named herein shall remain fully and jointly and severally liable for all obligations of the Tenant under this Lease unless such assignee or transferee assumes, by written instrument reasonably acceptable to Landlord and Tenant, all of the obligations of the Tenant under this Lease, and a copy of such assumption agreement has been furnished to Landlord, in which event the Tenant shall be released from all obligations and liability hereunder, and (2) Tenant shall provide Landlord with not less than thirty (30) days prior written notice of any such intended assignment or sublease. Any such assignment or sublease shall otherwise remain subject to the terms and conditions of this Section. Any other assignment or subleasing of Tenant's interest under this Lease will be subject to Landlord's approval, which approval will not be unreasonably withheld, conditioned or delayed.

(e) Except as specifically set forth above, if any portion of the Premises or of Tenant's interest in this Lease is acquired by any other person or entity, whether by assignment, mortgage, sublease, transfer, operation of law or act of the Tenant, or if Tenant pledges its interest in this Lease or in any security deposit required hereunder, Tenant will be in default.

(f) Each permitted assignee or transferee shall assume and be deemed to have assumed this Lease and shall be and remain liable, for the payment of the Fixed Basic Rent and Additional Rent, and for the due performance of all the terms, covenants, conditions and agreements herein contained on Tenant's part to be performed for the Term of this Lease. The liability of Tenant named herein and any immediate and remote successor in interest of Tenant (by assignment or otherwise), and the due performance of the obligations of this Lease on Tenant's part to be performed or observed, shall not in any way be discharged, released, or impaired by any: (a) agreement that modifies any of the rights or obligations of the parties under this Lease; (b) stipulation that extends the time within which an obligation under this Lease is to be performed; (c) waiver of the performance of an obligation required under this Lease; or (d) failure to enforce any of the obligations set forth in this Lease, unless such assignee or transferee assumes, by written instrument reasonably acceptable to Landlord and Tenant, all of the obligations of the Tenant under this Lease, and a copy of such assumption agreement has been furnished to Landlord.

## **SECTION 8**

### **COMPLIANCE WITH RULES AND REGULATIONS**

Tenant will observe and comply with the rules and regulations set forth in Exhibit B and with such further reasonable rules and regulations as Landlord or the maintenance association (of which Landlord is a member and which relates to the operation and maintenance of the Related Facilities) may prescribe from time to time.

## **SECTION 9**

### **DAMAGES TO BUILDING**

(a) If the Premises and/or access thereto, or any part thereof, shall be damaged by fire or other cause, Tenant shall give immediate notice thereof to Landlord, and this Lease shall continue in full force and effect except as hereinafter set forth. In such event, Landlord shall, subject to compliance with the provisions of any Mortgage or Superior Lease, adjustment of claims and receipt of insurance proceeds, and to its rights under the succeeding provisions of this Section 9, repair the damage and restore and rebuild the Premises with reasonable diligence as nearly as may be practicable to its condition immediately prior to such damage (excluding, however, any Tenant Property and/or improvements owned or made by Tenant,

including, without limitation, any Tenant Alterations, which shall be the Tenant's responsibility to repair and/or restore).

(b) If the Premises shall be partially or totally damaged or rendered partially or totally untenable by fire or other cause without the fault or neglect of Tenant, Tenant's employees, agents, contractors, visitors or licensees, then, until such repairs are made, Landlord shall repair and /or rebuild same at its own expense with reasonable diligence and the Rent shall be apportioned according to the part of the Premises which is usable by Tenant and shall be abated from the date of such damage to the date the damage shall be substantially repaired to the same condition as required under Section 5 for the occurrence of the Commencement Date.

(c) If the Premises are totally or substantially damaged or are rendered wholly or substantially untenable by fire or other cause, and/or if Landlord shall decide not to restore or not to rebuild the same, or if the Building shall be so damaged that Landlord shall decide to demolish it or not to rebuild it (whether or not the Premises have been damaged), then in any of such events either party may, within one hundred twenty (120) days after the occurrence of such casualty, give the other notice of such decision, and thereupon the Term of this Lease shall expire upon the date set forth in such notice as fully and completely as if such date were the Expiration Date of this Lease. Tenant shall then forthwith quit, surrender and vacate the Premises. Such termination and surrender shall be without prejudice to Landlord's rights and remedies against Tenant under the Lease provisions in effect prior to such termination, and the Rent reserved hereunder shall be apportioned as of the date of such casualty pursuant to Section 9(b).

(d) Unless either party shall serve a termination notice as provided for in Section 9(c) above, Landlord shall make the repairs and restorations as above-described, with all reasonable expedition subject to delays due to adjustment of insurance claims and Force Majeure, and the Rent shall be apportioned according to the part of the Premises which is usable by Tenant and shall be abated from the date of such damage to the date the damage shall be substantially repaired to the same condition as required under Section 5. If Landlord has not substantially completed the making of the required repairs and restored and rebuilt the Premises and/or access thereto (other than to the extent resulting from Tenant's acts or omissions) within twelve (12) months from the date of such damage or destruction and such additional time as Landlord shall be delayed due to adjustment of insurance or Force Majeure, then within thirty (30) days thereafter, Tenant may terminate this Lease by notice to Landlord. No damages, compensation or claims shall be payable by Landlord for delay, inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or of the Building.

(e) The words "restoration" and "restore" as used in this Section 9 will include repairs.

(f) The provisions of this Section shall be considered an express agreement governing any case of damage or destruction of the Premises by fire or other casualty, and Section 227 of the Real Property Law of the State of New York, providing for such a contingency in the absence of an express agreement, and any other law of like import, now or hereafter in force, shall have no application in such case.

(g) Notwithstanding any of the foregoing provisions of this Section, if Landlord or the any Superior Lessor or Mortgagor shall be unable to collect all of the insurance proceeds applicable to damage or destruction of the Premises or the Building by reason of the sole negligent action or inaction on the part of Tenant or any of its employees, agents or contractors, then, without prejudice to any other remedies which may be available against Tenant, the abatement of Tenant's rent provided for in this Section shall not be effective to the extent of the uncollected insurance proceeds.

## **SECTION 10**

### **EMINENT DOMAIN**

If Tenant's use of the Premises is materially affected due to the taking by eminent domain of (a) the Premises or any part thereof; or (b) any other part of the Building; then, in either event, this Lease will terminate on the date when title vests pursuant to such taking. The Fixed Basic Rent, and any Additional Rent, will be apportioned as of such termination date and any Fixed Basic Rent or



Additional Rent paid for any period beyond said date, will be repaid to Tenant. Tenant will not be entitled to any part of the award for such taking or any payment in lieu thereof, but Tenant may file a separate claim for any taking of fixtures and improvements owned by Tenant which have not become the Landlord's property, and for moving expenses, provided the same will, in no way, affect or diminish Landlord's award. In the event of a partial taking which does not effect a termination of this Lease but does deprive Tenant of the use of a portion of the Premises, Tenant will either be entitled to terminate this Lease or to receive an abatement or an equitable reduction in Fixed Basic Rent, depending on the period for which and the extent to which the Premises are not reasonably usable for general office use. In such event, Landlord shall, at its own cost and expense, make all necessary repairs or alterations to the Building and/or the Premises for Tenant's intended use of the Premises.

## **SECTION 11**

### **REMEDIES ON DEFAULT**

(a) If Tenant defaults in the payment of Fixed Basic Rent or any Additional Rent or in the performance of any of the other material covenants and conditions of this Lease or permits the Premises to become deserted, abandoned or vacated for a period of six (6) months, subject to Force Majeure, Landlord may give Tenant notice of such default. Tenant shall cure any Fixed Basic Rent or Additional Rent default within ten (10) business days or other default within forty-five (45) calendar days after the giving of such notice (or, if such other default is of such nature that it cannot be completely cured within such period, and the continuance of such default during any cure period will not subject Landlord to the risk of criminal liability or termination of any superior lease or foreclosure of any superior mortgage, Tenant may commence such curing within such forty-five (45) calendar days and thereafter continuously proceed with reasonable diligence and in good faith to cure such default). In the event of two (2) or more monetary defaults by Tenant under this Lease within the same consecutive twelve (12) month period, or other breach by Tenant of a material term or provision under this Lease, which have not been cured within the applicable grace or cure periods, then Landlord may terminate this Lease upon not less than thirty (30) days' notice to Tenant, and on the date specified in such notice the Term of this Lease and Tenant's right of possession of the Premises will terminate, and Landlord may exercise any and all rights and remedies available to it under this Lease, at law or in equity.

(b) If Landlord defaults in the performance of any provisions, covenants and conditions of this Lease or its obligations under it, Tenant may give Landlord written notice of such default or breach of the Lease. Landlord shall cure such default within thirty (30) days after the giving of such notice by Tenant (or if such default is of such nature that it cannot be completely cured within such period, and the continuance such default during any cure period will not subject Tenant to the risk of criminal liability or termination of any superior lease or foreclosure of any superior mortgage, Landlord may commence such curing within such thirty (30) calendar days and thereafter continuously proceed with reasonable diligence and in good faith to cure such default). In the event Landlord does not cure such default within aforesaid cure periods, Tenant may have all the rights and remedies available under this Lease, at law or in equity, including, but not limited, the right to terminate this Lease upon thirty (30) days' written notice to Landlord, or cure the Landlord's default, pursuant to subparagraph (c) below. Each right and remedy of Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or otherwise, and the exercise by Tenant of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or otherwise shall not preclude the simultaneous or later exercise by Tenant of any or all other rights or remedies.

(c) In the event of a default by either party with respect to a material provision of this Agreement, which is not cured within any applicable notice and cure periods, without limiting the non-defaulting party in the exercise of any right or remedy which the non-defaulting party may have by reason of such default, the non-defaulting party may pursue any remedy now or hereafter available to the non-defaulting Party under the laws or judicial decisions of the state in which the Premises are located, including (but without obligation to do so), without waiving such default, perform the defaulting party's duty or obligation on the defaulting party's behalf; provided, however, each party shall use reasonable efforts to mitigate its damages in connection with an uncured default by the other party. The costs and expenses of any such performance by the non-defaulting party, including (without being limited to) counsel fees, shall be due and payable by the defaulting party upon receipt of an invoice therefor, provided such costs are reasonable and the non-defaulting party provides the necessary supporting documentation. If the defaulting party does not pay the non-defaulting party the full undisputed amount within thirty (30) days of its



receipt of an invoice setting forth the amount due from the defaulting party together with supporting documentation, the non-defaulting party may offset the full undisputed amount due against all fees due and owing to the defaulting party until the full undisputed amount is fully reimbursed to the non-defaulting party, together with interest thereon at Prime plus three (3%) percent per annum. The foregoing to the contrary, in the event Tenant cures a default from Landlord, in no event shall Tenant deduct more than an amount equal to fifty percent (50%) of each installment of Fixed Basic Rent until repaid in full or if the remaining months of the Term will not permit a full recoupment, Tenant may deduct said amount from any installment of Fixed Basic Rent by increasing the aforesaid percentage over the number of months remaining in the balance of the Term sufficient to be fully repaid by the Expiration Date. Notwithstanding anything to the contrary in the foregoing, to the extent any repair or maintenance must be performed within the premises of any other tenant in the Building, Tenant shall provide Landlord with notice by e-mail to dramsay@gdcllc.com and/or clynch@gdcllc.com or to such other recipients as Landlord may designate in writing that Tenant will need access thereto and listing Tenant's contractors that will perform the required work. In the event Landlord fails to coordinate such access with affected tenant and either by authorize Tenant's contractors or use Landlord's contractors to perform the required work, to the reasonable satisfaction of Tenant, within ten (10) business days after said notice, Landlord's approval shall be deemed approved and Tenant may, but is not obligated to, proceed to complete the work provided it obtains such tenant's consent and Tenant's obligation to pay Fixed Basic Rent will then be abated proportionately with the degree to which Tenant's use of the Premises is materially and adversely impaired, up to an amount not to exceed fifty (50%) percent of the amount of each installment of Fixed Basic Rent until such time as Landlord complies with its repair and maintenance obligations under this Lease. In no event will Tenant have the right to enter another tenant's premises for any other reason without Landlord's consent.

(d) If at or before the Commencement Date or at any time during the Term there shall be filed against either party in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of such party's assets, and within sixty (60) days thereafter such party fails to secure a discharge thereof, or if such party shall make an assignment for the benefit of creditors or petition for or enter into an arrangement or composition with creditors, or takes advantage of any statute relating to bankruptcy, this Lease shall, thereupon, upon notice from the non-defaulting party be canceled and terminated, if permitted by such statutes. In the event of any such cancellation and termination, this Lease shall terminate (whether or not the Term shall theretofore have commenced) with the same force and effect as if that day were the Expiration Date, but such party shall remain liable for damages as provided in this Lease. In addition to the other rights and remedies available to Landlord by virtue of any other provision of this Lease or by virtue of any statute or rule of law, Landlord may retain as liquidated damages any rent, the Security Deposit, if any, and/ or any other monies received by it from Tenant or others on behalf of Tenant.

(e) Anything in this Lease to the contrary notwithstanding, and without limiting any of Landlord's rights and remedies hereunder, at law and/or in equity, in the event that the Lease is terminated as a result of a default by Tenant, as set forth in subparagraph (a), beyond any applicable notice and cure period, Tenant then shall promptly reimburse Landlord upon demand for the amount (amortized over the Term), if applicable, of (i) any abatement of rent during the Rent Concession Period (ii) any broker commissions paid by Landlord in connection with this Lease and any extension of the Term, (iii) the cost of the Work (as hereinafter defined) and (iv) any allowance or credits given to Tenant, upon submission of an invoice together with supporting documentation.

## **SECTION 12**

### **RE-ENTRY AND REMEDIES ON TENANT'S DEFAULT**

(a) If this Lease terminates pursuant to the terms of Section 11, subparagraph (a), then and in any of such events Landlord may, upon notice, re-enter the Premises, and dispossess Tenant and/or the legal representative of Tenant or other occupant(s) of the Premises by summary proceedings, ejectment, or otherwise, and remove their effects and hold the Premises as if this Lease had not been made.

(b) In case of re-entry by Landlord, due to an earlier termination of this Lease, and whether by summary proceedings or otherwise, Landlord or its agents and legal representatives shall exercise commercially reasonable efforts to relet the Premises as the agent of

Tenant, and receive the rent therefor, at such rent as Landlord is able to negotiate, provided however Landlord uses commercially reasonable efforts to relet the Premises at market rates used for similar premises located within the same geographic region and such other terms as shall be satisfactory to the Landlord, in its sole but reasonable discretion, and all rights of Tenant to repossess the Premises shall be forfeited. Any such reletting may be of the entire Premises or any part thereof, either in the name of Landlord or otherwise, for a term or terms, which may at Landlord's option be less than or in excess of the period which would otherwise have constituted the balance of the Term and may provide for rent concessions or free rent provided such concessions serve to mitigate Tenant's damages. Such re-entry or reletting, or both, by Landlord shall not operate to release Tenant from paying the difference between any Fixed Based Rent and Additional Rent owed by Tenant for the remainder of the then applicable term and the rent and other amounts actually received by Landlord from the new tenant(s) leasing all or a portion of the Premises. For the purposes of reletting, Landlord shall be authorized to make such repairs or alterations in or to the Premises as Landlord shall deem reasonably necessary to restore the same to the original condition, except for normal wear and tear. Tenant shall be liable to Landlord for the cost of such repairs and all reasonable expenses of such reletting, including, but not limited to, reasonable attorney's fees and brokerage fees. Tenant shall not be entitled to any surplus accruing as a result of any such reletting.

(c) In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not provided for herein. Mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy at law or in equity.

(d) Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or otherwise, and the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies.

(e) Landlord reserves the right, without liability to Tenant and without constituting any claim of constructive eviction, to suspend furnishing or rendering to Tenant any property, material, labor, utility or other service, wherever Landlord is obligated to furnish or render the same at the expense of Tenant, in the event that (but only for so long as) Tenant is in arrears in paying Landlord therefor, beyond any applicable cure periods.

### **SECTION 13** **DEFICIENCY**

(a) If as a result of any Tenant default which has not been cured within the applicable cure period, hereunder (i) this Lease and the Term shall end, or (ii) if Landlord shall re-enter the Premises as herein provided, then, in any of such events:

(i) Tenant shall pay to Landlord all Rent payable under this Lease by Tenant to Landlord up to the Expiration Date to the date of re-entry upon the Premises by Landlord, as the case may be;

(ii) Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as prepaid Rent, the Security Deposit (if any) or otherwise, and to draw upon any Letter of Credit or other security deposited by Tenant hereunder and retain the proceeds thereof, which monies, to the extent not otherwise applied to amounts due and owing to Landlord, shall be credited by Landlord against any damages payable by Tenant to Landlord;

(iii) Tenant shall pay to Landlord, in monthly installments, on the days specified in this Lease for payment of installments of Fixed Basic Rent, any Deficiency; it being understood that Landlord shall be entitled to recover the Deficiency from Tenant each month 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

(iv) In the alternative, Tenant shall pay to Landlord, on demand, in lieu of any further Deficiency and as liquidated and agreed final damages, a sum equal to the amount by which

the Rent for the period which otherwise would have constituted the unexpired portion of the Term (assuming Additional Rent during such period to be the same as had been payable for the year immediately preceding such termination or re-entry, increased in each succeeding year by three percent (3%) (on a compounded basis)) less the aggregate amount of Deficiencies theretofore collected by Landlord for the same period.

(b) Nothing herein contained shall be construed to limit or preclude recovery by Landlord against Tenant of any sums or damages to which, in addition to the damages particularly provided above, Landlord may lawfully be entitled by reason of any default hereunder or otherwise on the part of Tenant. In any case where Tenant has defaulted and Landlord has recovered possession of the Premises or terminated this Lease or Tenant's right to possession, Tenant's obligation to pay Landlord all the Fixed Basic Rent and Additional Rent up to and including the Expiration Date will not be discharged or otherwise affected. Landlord will have all rights and remedies available to Landlord at law and in equity by reason of Tenant's default, and may periodically sue to collect the accrued obligations of the Tenant together with interest at Prime plus three (3%) percent per annum from the date owed to the date paid, but in no event greater than the maximum rate of interest permitted by law.

#### SECTION 14 QUIET ENJOYMENT/SUBORDINATION

(a) Landlord covenants that if, and so long as, Tenant pays all of the Rent due under this Lease and keeps, observes and performs each and every term, covenant, agreement, condition and provision of this Lease on Tenant's part to be kept, observed and performed, Tenant may peaceably and quietly enjoy the Premises without hindrance or molestation by Landlord or by any other person lawfully claiming through or under the same.

(b) This Lease, and all rights of Tenant hereunder, are and shall be (i) subject and subordinate in all respects to all present ground leases, over-riding leases and underlying leases and/or grants of term affecting the Premises and/or the Building in whole or in part now existing (each a "**Superior Lease**" and, collectively, "**Superior Leases**") and (ii) subject to all present mortgages, building loan agreements and other security interests, which affect the Premises and/or the Building and/or any Superior Leases (each a "**Mortgage**" and, collectively, "**Mortgages**"), and all advances under any Mortgage, whether or not the Superior Leases or Mortgages shall also cover other lands and/or buildings. The foregoing shall extend to each and every advance made or hereafter to be made under any existing Mortgage, and to all renewals, modifications, replacements and extensions of any Superior Lease and/or Mortgage and spreaders, consolidations and modifications of any such Mortgage. Notwithstanding the foregoing, if Landlord does not obtain financing from the Anticipated Mortgagee on or before December 1, 2024 ("December 1<sup>st</sup> Date"), then Landlord shall use commercially reasonable efforts, at its sole cost (not including Tenant's legal fees), to provide a form of Non-Disturbance Agreement, in recordable form, from the lessor under any existing Superior Lease (the "**Superior Lessor**") and/or the holder of any existing Mortgage (the "**Mortgagee**"), on such terms as are reasonably acceptable to Tenant and to such Superior Lessor or Mortgagee within thirty (30) days from the December 1<sup>st</sup> Date, and shall diligently proceed to obtain such agreement for the benefit of Tenant. Landlord has advised Tenant that Landlord is in the process of obtaining a mortgage loan from an affiliate of Benefit Street Partners (the "**Anticipated Mortgagee**") and is expecting to obtain said mortgage loan on, before or around the Effective Date. Landlord represents to Tenant that the Anticipated Mortgagee has received the final draft of this Lease and has not raised any objections to any of the terms set forth herein. Further, Landlord represents that, under the terms of the loan documents to be executed by Landlord in connection with the mortgage made in favor of the Anticipated Mortgagee, Landlord shall deposit one hundred percent of the cost to complete Landlord's Work and pay any commissions owed to Landlord's Broker and the Tenant's Broker in one or more accounts to be controlled by the Anticipated Mortgagee, which funds, subject to Anticipated Mortgagee's rights under the loan documents in the event of a default thereunder, will be used to pay for Landlord's Work and any commissions owed to Landlord's Broker and the Tenant's Broker. Notwithstanding the foregoing, Landlord shall, at its sole cost (not including Tenant's legal fees), provide a Non-Disturbance Agreement, in recordable form on such terms as are acceptable to Tenant and Anticipated Mortgagee on or prior to the Effective Date, which the Tenant will hold in escrow until it receives confirmation from the Landlord that it received financing from the Anticipated Mortgagee. Landlord recognizes that the foregoing representations are a material element of this Lease and any breach thereof will be deemed a material breach under this Lease, and may entitle



the Tenant to the rights and remedies set forth in Section 11 hereof, including the right to terminate the Agreement, without further obligation or liability whatsoever.

(c) This Lease may be subordinate to any future Superior Lessor or Mortgagee or any other future holder of an interest over all or any part of the Real Property, which from time to time may encumber the all or a portion of the Real Property, provided, however, as a condition precedent to Tenant subordinating its interests in this Lease to any such future Superior Lessor or Mortgagee or any other future holder of an interest over all or any part of the Real Property, Landlord obtains a Subordination, Non-Disturbance and Attornment Agreement for the Tenant's benefit in form reasonably acceptable to Tenant and such Superior Lessor or Mortgagee.

(d) Tenant shall take no steps to terminate this Lease without giving written notice to any Superior Lessor or Mortgagee or future lender, lessor or designee of Landlord, and a reasonable opportunity to cure (without such Superior Lessor or Mortgagee being obligated to cure), any default on the part of Landlord under this Lease.

## **SECTION 15**

### **SECURITY DEPOSIT**

Tenant is not required to deposit with Landlord any Security Deposit or other security for the performance of Tenant's obligations under this Lease.

## **SECTION 16**

### **INTENTIONALLY OMITTED**

## **SECTION 17**

### **LIENS**

Tenant will not permit any lien or other encumbrance to be filed as a result of any act or omission (or alleged act or omission) of Tenant. Tenant will, within sixty (60) days after notice from Landlord, discharge or satisfy by bonding or otherwise any liens filed against Landlord or all or any portion of the Real Property as a result of any such act or omission, including any lien or encumbrance arising from contract or tort claims.

## **SECTION 18**

### **RIGHT TO INSPECT AND REPAIR**

Landlord or its designees may enter the Premises (but will not be obligated to do so) at any reasonable time on reasonable advance notice to Tenant (except that no notice need be given in case of emergency as reasonably determined by Landlord) for the purpose of: (i) inspection; (ii) performance of any work or the making of any repairs, replacements or additions in, to, on and about the Premises or the Building, as Landlord deems necessary or desirable; (iii) showing the Premises to prospective purchasers, lenders and/or tenants or (iv) for any other reasonable purpose. Tenant will provide Landlord or its designees free and unfettered access to any mechanical or utility rooms, conduits, risers or the like located within the Premises. Landlord or any prospective tenant shall have the right to enter the space to perform inspections, surveys, measurements or such other reasonable activities as may be necessary to prepare the Premises for occupancy by the succeeding tenant. Tenant will have no claims, including claims for interruption of Tenant's business, or cause of action against Landlord by reason of entry for such purposes provided Landlord acted to reduce or minimize any disruption or adverse interference with Tenant's business operations. Landlord shall be allowed to take all material into and upon the Premises that may be required for the operation, maintenance, repair or alteration above mentioned without the same constituting an eviction of Tenant in whole or in part, and the rent reserved shall in no way abate, except as otherwise provided in this Lease, while said operation, maintenance, repair or alteration are being made.

## **SECTION 19**

### **SERVICES TO BE PROVIDED BY LANDLORD**

(a) Landlord will, as an Operating Cost, furnish to the Premises (i) electricity for normal lighting and ordinary office machines at Tenant's expense as provided herein, (ii) during Building Hours, HVAC required for the reasonable use and occupancy of the Premises, (iii) public elevator service in the Building during Building Hours and have available at least one elevator for tenants' use at all times, (iv) hot and cold water for normal lavatory pantry, drinking and office

cleaning purposes; but if Tenant requires, uses or consumes water for any other purpose, Landlord may install, at Tenant's expense, a meter or meters or other means to measure Tenant's water consumption and Tenant shall reimburse Landlord for the cost of all water consumed as measured by said meter or meters or as otherwise measured, and (v) janitorial service (as set forth in Exhibit D), all in a manner comparable to that of similar buildings in the area. In addition, Landlord shall, as an Operating Cost, provide Common Facilities lighting at the Real Property during Building Hours and for such additional hours as, in Landlord's reasonable judgment, is necessary or desirable to insure proper operation of the Real Property.

(b) Tenant will be entitled to make use of HVAC beyond the Building Hours, at Tenant's sole cost and expense, provided Tenant has notified Landlord by 3:00 p.m. on the day that Tenant will require said overtime use if said overtime use is required on any weekday, and by 3:00 p.m. on Friday for Saturday and/or Sunday overtime use. Tenant will pay Landlord the HVAC After Hours Charge (as defined in the Basic Lease Provisions) for HVAC beyond the Building Hours. There is a four (4) hour minimum HVAC After Hours Charge for Saturdays and Sundays. Notwithstanding the foregoing to the contrary, the parties agree that if Tenant notifies Landlord on or before 3:00 on Friday before any given Saturday, there shall be no HVAC charges for such Saturday charged to the Tenant.

(c) Any damage caused to the HVAC equipment, appliances or appurtenances as a result of the negligence of, or careless operation of the same by, Tenant or its agents, servants, employees, licensees, invitees, or visitors shall be repaired by Landlord, and the cost and expense thereof shall be paid by Tenant, as additional rent, within thirty (30) days after being billed therefor.

(d) Landlord reserves the right, without any liability to Tenant, to interrupt, curtail or suspend the services required to be furnished by Landlord under this Lease when the necessity therefor arises by reason of accident, emergency, mechanical breakdown, or when required by any law, order or regulation of any federal, state, county or municipal authority, or by reason of Force Majeure. Landlord shall exercise all commercially reasonable diligence to eliminate the cause of stoppage and to effect restoration of service and shall give Tenant reasonable notice, whenever practicable, of the commencement and anticipated duration of such stoppage. No diminution or abatement of rent or other compensation shall be claimed by Tenant as a result therefrom, nor shall this Lease or any of the obligations of Tenant be affected or reduced by reason of such interruption, curtailment or suspension, provided Landlord proceeds with diligence to address any such emergency or mandatory stoppage event. In the event the interruption of any service is an Essential Service (as defined below), the interruption is not the result of Force Majeure or any act or omission of Tenant, and the interruption continues for five (5) consecutive business days, then, as its sole remedy, Tenant shall be entitled to an abatement of pro-rated Fixed Basic Rent due for each day of such ongoing default or interruption commencing as of the sixth (6<sup>th</sup>) business day after the interruption or curtailment and ending on the earlier of (x) the date Tenant reoccupies any portion of the Premises that was so affected, and (y) the date on which such condition is substantially remedied. "**Essential Service**" shall mean any service which, if not provided, shall (1) effectively deny access to the Premises, (2) threaten the health or safety of any occupants of the Premises, (3) prevents or materially and adversely restrict the usage of more than twenty-five percent (25%) of the Premises for the ordinary conduct of Tenant's business.

(e) Tenant shall not clean from the outside, or allow to be cleaned from the outside by anyone acting for or on behalf of Tenant, any window in the Premises. Notwithstanding anything in this Section to the contrary, upon Tenant's request, Tenant shall pay to Landlord on demand the costs incurred by Landlord for (a) cleaning work in the Premises or the Building required because of (i) misuse or neglect on the part of Tenant or its employees, agents, contractors, licensees or visitors, (ii) use of portions of the Premises for preparation, serving or consumption of food or beverages, reproducing operations, private lavatories or toilets or other special purposes requiring greater or more difficult cleaning work than office area, (iii) interior glass surfaces, and/or (iv) non-Building Standard materials or finishes installed by Tenant or at its request, requiring greater or more difficult care than if Building Standard, and (b) removal from the Premises and the Building of (i) any refuse and rubbish of Tenant as shall exceed that normally accumulated daily in the routine or ordinary business office occupancy and (ii) all of the refuse and rubbish of Tenant's machines and the refuse and rubbish of any eating facilities requiring special handling (known as "wet garbage"). Landlord and its cleaning contractor and their employees shall have after-hours access to the Premises and the use of Tenant's light, power and water in the Premises as may be reasonably required for the purpose of cleaning the Premises.

## **SECTION 20**

### **TENANT'S ESTOPPEL**

Tenant agrees, at any time, and from time to time, upon not less than twenty (20) days' prior notice by Landlord, to execute, acknowledge and deliver without cost or expense to Landlord, a statement in writing addressed to the party requesting same (i) 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), (ii) certifying the dates to which the Fixed Basic Rent, Additional Rent and other charges have been paid, the amount of the Security Deposit (if any), and any amount(s) due from Landlord to Tenant for any construction work, (iii) stating whether or not to the best knowledge of Tenant, there exists any default in the performance of any covenant, agreement, term, provision or condition contained in this Lease, and if so, specifying each such default of which Tenant may have knowledge, and (iv) certifying as to any other matter as Landlord shall reasonably request; it being intended that any such statement delivered pursuant hereto may be relied upon by the party requesting same and by any other person with whom Landlord may be dealing. If Tenant fails to execute any such instrument within said twenty (20) day period, (a) such failure shall constitute a material default by Tenant under this Lease and, in such event, Tenant agrees to pay as liquidated damages, in addition to all other remedies available to Landlord, an amount equal to \$100 per day for each day that Tenant fails to deliver such certificate to Landlord after the expiration of such twenty (20) day period and (b) Tenant irrevocably appoints Landlord as its attorney-in-fact, in Tenant's name, to execute such instrument.

## **SECTION 21**

### **HOLDOVER TENANCY**

Tenant agrees that it must surrender possession of the Premises to Landlord on the Expiration Date or earlier termination of the Term. Tenant agrees to indemnify and hold Landlord harmless from and against all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including attorneys' fees, resulting from any delay by Tenant in so surrendering the Premises, including any claims made by any succeeding tenant based on such delay. Tenant agrees that if possession of the Premises is not surrendered to Landlord on the Expiration Date or earlier termination of the Term, then Tenant agrees to pay Landlord as liquidated damages for each month and for any portion of a month during which Tenant holds over in the Premises after the Expiration Date or earlier termination of the Term, a sum or sums equal to the following: (a) for the first and second months (or portions thereof) of any such holdover 100% of the average Fixed Basic Rent and Additional Rent which was payable per month under this Lease during the last three months of the Term and (b) for the third month and each month thereafter (or portions thereof) 125% of the average Fixed Basic Rent and Additional Rent which was payable per month under this Lease during the last three months of the Term. Such liquidated damages shall not limit Tenant's indemnification obligation set forth above, including, without limitation, with respect to claims made by any succeeding tenant based on Tenant's failure or refusal to surrender the Premises to Landlord on the Expiration Date or sooner termination of the Term. Nothing contained herein shall be deemed to authorize Tenant to remain in occupancy of the Premises after the Expiration Date or sooner termination of the Term and, in the event of any such holdover, Landlord may pursue any and all remedies to which it may be entitled under this Lease, at law or in equity.

## **SECTION 22**

### **OVERDUE RENT CHARGE/INTEREST**

(a) Any other amount owed by Tenant to Landlord which is not paid when due will bear interest at the lesser of (i) the rate of two percent (2%) per month from the due date of such amount, or (ii) maximum legal interest rate permitted by law. The payment of interest on such amounts will not extend the due date of any amount owed.

## **SECTION 23**

### **INSURANCE**

(a) Tenant's Insurance. On or before the Commencement Date or Tenant's prior entry into the Premises, to the extent applicable, Tenant will obtain and have in full force and effect, insurance coverage as follows:

(i) Provided Tenant is the tenant entity set forth on Page "i" of this Lease, and Tenant shall be an agency or political subdivision of the State of New York or the County of



Westchester, Tenant may, in lieu of procuring and maintaining the aforementioned insurance, elect to obtain such insurance through a program of self-insurance, in accordance with Local Law 6-1986 and Chapter 295 of the Laws of Westchester County.

(ii) If the Tenant changes from a self-insurance program to a traditional insurance program then the Tenant at its expense, shall maintain throughout the Term the following types of insurance: (a) Commercial General Liability Insurance covering claims for bodily injury, death and property damage occurring upon, in, or about the Premises; such insurance shall afford coverage of not less than \$4,000,000.00 combined, single limit for bodily injury, death and property damage and shall indicate that the Landlord and Others in Interest are additional insureds; there shall be added to or included within said liability insurance all other coverages as may be usual for Tenant's use of the Premises; said insurance shall be written in a primary policy not contributing with, or in excess of, insurance that Landlord and Others in Interest may have and shall include coverage on an "occurrence basis" rather than a "claims made" basis; (b) commercial auto liability insurance providing bodily injury and property damage coverage on an occurrence basis at a combined single limit of not less than \$3,000,000; (c) "all risk" property insurance on all of Tenant's Property, including contents and trade fixtures; (d) workers' compensation and employer's liability as required by law; (e) disability benefits liability as required by law; (f) owners' and contractors' protective liability coverage in an amount not less than \$2,000,000 during the performance by or on behalf of Tenant of any work under this Lease, until completion thereof; and (g) insurance covering in full interruption of Tenant's business for a minimum of twelve (12) months. All policies obtained by Tenant will be issued by carriers having ratings in Best's Insurance Guide ("Best") of A and VIII, or better (or equivalent rating by a comparable rating agency if Best no longer exists) and licensed in the State. The general liability policies must be endorsed to be primary and noncontributing with the policies of Landlord being excess, secondary and noncontributing and shall contain an endorsement stating no policy will be canceled, nonrenewed or materially modified without thirty (30) days' prior written notice by the insurance carrier to Landlord (the "**Cancellation Endorsement**"). If the forms of policies, endorsements, certificates, or evidence of insurance required by this Section 23 are superseded or discontinued, Landlord may require other equivalent or better forms. Evidence of the insurance coverage required to be maintained by Tenant, represented by certificates of insurance issued by the insurance carrier, must be furnished to Landlord prior to Tenant occupying the Premises and at least thirty (30) days prior to the expiration of current policies. Copies of all endorsements required by this Section 23 must accompany the certificates delivered to Landlord. The certificates will state the amounts of all deductibles and self-insured retentions and the Cancellation Endorsement. If requested in writing by Landlord, Tenant will provide to Landlord a certified copy of any or all insurance policies or endorsements required by this Section 23. The insurance described in clauses (a), (b) and (f) hereof shall indicate that the Landlord and Others in Interest are additional insureds.

(b) Landlord's Insurance. Landlord agrees to procure and maintain throughout the Term insurance naming the Tenant as additional insured, insurance that satisfies the Insurance Requirements and otherwise as provided and described in Exhibit K attached hereto and made a part hereof, as well as other insurance covering such other risks as Landlord may from time to time determine in its reasonable judgment, including, without limitation (if Landlord so elects), insurance against earthquake, terrorism, flood and rental loss.

(c) Tenant will not do or allow anything to be done on the Premises which will increase the rate of fire insurance on the Building from that of a general office building. If any use of the Premises by Tenant results in an increase in the fire insurance rate(s) for the Building, Tenant will pay Landlord, as Additional Rent, any resulting increase in premiums. Tenant's insurance obligations set forth in Section 23 (a) (i) above shall continue in effect throughout the Term and after the Term as long as Tenant, or anyone claiming by, through or under Tenant, occupies all or any part of the Premises.

(d) Landlord and Tenant hereby waive all claims and release each other and each other's employees, agents, customers and invitees from any and all liability for any loss, damage or injury to property occurring in, on, about or to the Premises or the Building by reason of fire or other casualty, regardless of cause, including the negligence of Landlord or Tenant and their respective employees, agents, customers and invitees, and agree that the property insurance carried by either of them will contain a clause whereby the insurer waives its right of subrogation against the other party. Each party to this Lease will give to its insurance company notice of the provisions of this Section 23(c) and have such insurance policies properly endorsed, if necessary, to prevent the invalidation of such insurance by

reason of the provisions of this Section 23(c). Each party shall bear the risk of its own deductibles. Landlord and Tenant acknowledge that the insurance requirements of this Lease reflect their mutual recognition and agreement that each party will look to its own insurance and that each can best insure against loss to its property and business no matter what the cause. If Tenant fails to maintain insurance for loss including, without limitation, business interruption, Tenant shall be deemed to have released Landlord for all loss or damage which would have been covered if Tenant had so insured.

(e) Landlord will at all times during the Term, as an Operating Cost, carry a policy of insurance which insures the Building, including the Premises and the Work, if any, against loss or damage by fire or other casualty (namely, the perils against which insurance is afforded by a standard fire insurance policy); provided, however, that Landlord will not be responsible for, and will not be obligated to insure against, any loss of or damage to any personal property or trade fixtures of Tenant or any alterations which Tenant may make to the Premises or any loss suffered by Tenant due to business interruption. All insurance maintained by Landlord pursuant to this Section 23(d) may be effected by blanket insurance policies.

(f) Tenant acknowledges that Landlord will not carry insurance on Tenant's Property and agrees that Landlord will not be obligated to repair any damage thereto or replace the same.

(g) The limits of all insurance provided under this Section 23 shall not limit Tenant's liability to Landlord under this Lease. If Tenant fails to maintain insurance or decides to self-insure for any loss including, without limitation, business interruption, Tenant releases Landlord and Others in Interest for all loss or damage which could have been covered if Tenant had so insured.

#### **SECTION 24** **SURRENDER**

Upon the expiration or earlier termination of this Lease, Tenant shall quit and surrender the Premises in good order and condition, ordinary wear and tear and damage by fire or other casualty, the elements and any cause beyond Tenant's control excepted.

#### **SECTION 25** **WAIVERS**

(a) 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 set forth 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. 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, 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 or otherwise. No act by Landlord or its agent shall be deemed an acceptance of a surrender of the Premises and no agreement to accept such surrender shall be enforceable unless in writing and signed by Landlord. No employee of Landlord or its agent shall have any power to accept the keys to the Premises and the delivery of the keys shall not operate as a termination of this Lease or surrender of the Premises.

(b) To the extent permitted by applicable law, Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, or any emergency or other statutory remedy with respect thereto.

## **SECTION 26**

### **TENANT'S PROPERTY**

(a) All of Tenant's Property shall be removed by Tenant, at its sole cost and expense, upon the expiration or sooner termination of this Lease. In case of material damage by reason of such removal, Tenant shall restore the Premises to good order and condition. All property permitted or required to be removed by Tenant at the end of the Term remaining in the Premises sixty (60) days following the expiration or earlier termination of the Lease shall be deemed abandoned and may be retained or disposed of by Landlord at Tenant's expense and as Landlord, in its sole discretion, shall determine without any accountability or liability whatsoever to Tenant, and Tenant hereby releases Landlord from all claims for loss or damage to such property arising out of such retention or disposition thereof.

(b) For purposes of this Lease, "**Tenant's Property**" means all Tenant's trade fixtures, furniture, furnishings and equipment including, without limitation, computer and communications equipment and facilities (excluding any electric meter and related wiring) whether or not attached to or built into the Premises, which are installed by or for the account of Tenant (excluding any work performed by Landlord at Landlord's cost and expense), and which can be removed without material damage to the Premises or the Building. The foregoing notwithstanding, Tenant may but shall not be required to remove cabling or wiring and any Tenant's Property which cannot be removed without material damage to the Premises or the Building.

## **SECTION 27**

### **CHANGES TO PREMISES/BUILDING.**

(a) Tenant shall permit Landlord to install, use and maintain pipes and conduits in and through the Premises and unless such installations reduce the gross rentable square footage in the Premises in excess of one (1%) percent, there shall be no adjustment in the Rent. Where access doors are required for mechanical trades in or adjacent to the Premises, Landlord shall furnish and install such access doors and confine their location wherever practical to closets, coat rooms, toilet rooms, corridors, and kitchen or pantry rooms. Landlord and Tenant shall cooperate with each other in the location of Landlord's and Tenant's facilities requiring such access doors.

(b) Landlord shall have the right at any time without thereby creating an actual or constructive eviction or incurring any liability to Tenant therefor, to change the arrangements or location of such of the following as are not contained within the Premises or any part thereof: entrances, passageways, doors and doorways, corridors, stairs, toilets, and other like public or service portions of the Building or the Real Property, as well as to make such changes in or to the entrance doors to the Premises, without any adjustment in the Rent due hereunder from Tenant.

## **SECTION 28**

### **LIABILITY/ INDEMNITY**

(a) In addition to, and not in limitation of the insurance provisions contained in Section 23, and to the extent permitted by applicable laws, except for the amount, if any, of damage contributed by, or resulting from the negligence of the other party, each party shall defend, indemnify and save the other harmless against any and all claims of liability or loss, obligations, damages, costs and expenses, including reasonable attorneys' fees, from personal injury or property damage resulting from or arising out of its own negligence or the negligent acts or omissions of its employees, agents, contractors and licensees with respect to this Lease. The indemnified party: (i) shall promptly provide the indemnifying party with written notice of any claim, demand, lawsuit for which it seeks indemnification pursuant to this paragraph and provide the indemnifying party with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of the indemnifying party; and (iii) shall cooperate with the indemnifying party, at no cost to the indemnified party, in the defense of the claim, demand, lawsuit, or the like. A delay in notice shall not relieve the indemnifying party of its indemnity obligation, except to the extent the indemnifying party can show it was prejudiced by the delay, and the indemnifying party shall not be liable for any settlement or litigation expenses incurred before the time when notice is



given. The indemnifying party shall not settle any claim, demand, lawsuit or the like without the prior written consent of the indemnified party, which shall not be unreasonably withheld, delayed or conditioned.

(b) Except as expressly otherwise provided in this Lease, Landlord shall have no liability to Tenant by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord or any tenant making any repairs or alterations or performing maintenance services, whether or not Landlord is required or permitted by this Lease or by law to make such repairs or alterations or to perform such services in or to any portion of the Real Property, Building or Premises, or in or to the fixtures, equipment or appurtenances of the Building or the Premises.

(c) Tenant shall look solely to the estate and interest of Landlord, its successors and assigns, in the Real Property and Building (or the proceeds thereof) for the collection of a judgment (or other judicial process) requiring the payment of damages or money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord (or if Landlord is a partnership of any partner of Landlord) shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to either this Lease, the relationship of Landlord and Tenant hereunder or Tenant's use and occupancy of the Premises.

(d) This Section 28 shall survive the expiration or earlier termination of this Lease.

## **SECTION 29**

### **BROKER**

The parties represent and warrant to each other that no broker brought about this transaction other than Tenant's Broker and Landlord's Broker and each party agrees to indemnify and hold the other harmless from any and all claims of any broker(s) with whom such party has dealt arising out of or in connection with the negotiations of or entering into of this Lease by Tenant and/or Landlord. Landlord agrees to pay Tenant's Broker and Landlord's Broker a commission pursuant to separate agreements. It is understood and agreed by and between the parties hereto that the representations set forth in this paragraph are a material element of this Lease. This Section shall survive expiration or earlier termination of this Lease.

## **SECTION 30**

### **NOTICES**

Any notice by either party to the other shall be in writing and shall be deemed to have been duly given only if (i) delivered personally or (ii) sent by registered mail or certified mail return receipt requested in a postage paid envelope or (iii) sent by nationally recognized overnight delivery service for next business day delivery, if to Tenant, to the addresses set forth above in Section 13, which shall include copies to the Westchester County Attorney and the Director of Countywide Administrative Services and Real Estate as set forth above in Section 13; if to Landlord, to the Landlord's address as set forth above in Section 13, with a copy to Landlord's counsel as set forth above; or, to either at such other address as Tenant or Landlord, respectively, may designate in writing in accordance herewith. Notice shall be deemed to have been duly given, if delivered personally, on delivery thereof, if mailed, upon the third (3<sup>rd</sup>) business day after the mailing thereof or if sent by overnight delivery service, the next business day.

## **SECTION 31**

### **AUTHORITY**

The signatories on behalf of Tenant represent and warrant that they are authorized to execute this Lease, and if Tenant is a corporation or other Entity, Tenant will, within twenty (20) days of Landlord's request, provide Landlord with a resolution confirming the authorization. Each party represents and warrants to the other (i) that neither it nor any person or entity that directly owns a ten percent (10%) or greater equity interest in such party nor any of its officers, directors or managing members is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury

(including those named on OFAC's Specially Designated Nationals and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 signed on September 23, 2001 (the "**Executive Order**") and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action, (ii) that such party and Others in Interest's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the "**Money Laundering Act**"), and (iii) that throughout the Term each party will comply with the Executive Order and the Money Laundering Act.

## **SECTION 32**

### **PARKING SPACES**

(a) Tenant's occupancy of the Premises will include the exclusive right to use 229 designated Parking Spaces set forth in the Basic Lease Provisions, including 40 Electric Vehicle Charging Stations, for parking of automobiles in the garage located on the Real Property, as more particularly depicted on Exhibit A. Such Parking Spaces shall be considered a part of the Premises.

(b) In connection with the use of such reserved Parking Spaces, Tenant shall have a non-exclusive right of access over the entrance(s) and exit(s) to and from the garage. Tenant shall observe all regulations adopted by Landlord or any other operator of the garage in connection with the operation of the garage.

(c) Tenant's rights in and to the reserved Parking Spaces shall be exclusive. Tenant's reserved Parking Spaces shall be identified with either signage or the use of a color coding system. Tenant and its invitees shall not at any time park any oversized trucks or delivery vehicles in the garage. The garage will be accessible to Tenant's employees and invitees twenty-four (24) hours per day, seven (7) days per week. Nothing herein contained shall restrict other portions of the garage from being made available for use by the general public.

(d) The Parking Spaces, all other parking areas and the roadways and driveways used in connection therewith by Tenant and its invitees shall be used at their own risk, and Landlord shall not be liable for loss or damage to any vehicle or its contents, resulting from theft, collision, vandalism or any other cause. Landlord shall have no obligation to provide a guard or other personnel or device to patrol, monitor, guard, or secure any parking area, and if Landlord does provide such personnel or device Landlord shall have the right to terminate or withdraw such personnel or device at any time. Landlord shall have no liability for any acts or omissions of such personnel or device in failing to prevent such theft, vandalism, or loss or damage by other cause.

(e) There shall be no overnight parking except in that portion, if any, of the garage designated for such purpose by Landlord, in Landlord's sole discretion. Landlord shall not be required to make such designation. Any designation so made, may be rescinded at any time. Tenant shall cause its employees and invitees to remove their vehicles from the garage at the end of the working day, if there shall be no overnight parking area, or to place their cars in the overnight parking area, if designated. If any vehicles owned by Tenant shall remain in the garage overnight, except in the designated overnight parking area, if any, all costs or liabilities incurred by Landlord due to the presence of such vehicles and/or in removing such vehicles in order to effectuate cleaning, maintenance or operation of the garage, or any damage resulting to said vehicles or to Landlord's equipment or equipment owned by others, by reason of the presence or removal of said vehicles, shall be paid by Tenant to Landlord, as additional rent.

(f) Commencing on the Commencement Date, Tenant shall pay Landlord, in consideration for the parking privilege set forth in this Section 32, the Annual Parking Fee set forth in the Basic Lease Provisions.

(g) The Annual Parking Fee required to be paid by Tenant pursuant to Section 32(f) shall be paid in monthly installments, in advance, on the first day of each calendar month during the Term, together with and in the same manner as the Fixed Basic Rent.

(h) Tenant upon not less than thirty (30) days written notice to Landlord, may elect from time to time during the Term hereof to increase or decrease the number of Parking

Spaces set forth in the Basic Lease Provisions to be used in accordance with the terms hereof, in which case the Annual Parking Fee shall be adjusted downward accordingly by the then current monthly rate for each Parking Space that is surrendered and upward by such rate for each Parking Space that is added. Tenant's reduction of Parking Spaces or use of such additional Parking Spaces shall be subject to the execution of a separate agreement to memorialize the addition or reduction of the elected number of Parking Spaces and increasing or decreasing the Monthly Parking Fee.

(i) Tenant shall have exclusive access to 40 electric car charging stations, provided that Tenant shall be solely responsible for the electricity charges in connection therewith. It is hereby understood that Landlord shall maintain and repair the 40 electric car charging stations, at its sole cost and expense during the Term of this Lease. Tenant shall have the right, at Tenant's sole option, to relinquish up to twenty percent (20%) of the required electric car charging stations, for use by other tenants or invitees of the Building, provided Tenant is not required to pay for the electricity charges related thereto. Such election may be withdrawn by Tenant at any time, after the giving of notice to Landlord of such election.

(j) Landlord reserves the right from time to time to: (i) restrict parking by tenants, their officers, agents, employees, customers and invitees, to designated areas; (ii) discontinue, restrict or temporarily suspend use of all, or any portion of, the parking areas for such period of time as may be necessary in Landlord's sole discretion, to perform maintenance or repairs; (iii) limit the parking of vans, limousines and other large vehicles to specified areas; and (iv) institute control mechanisms and systems in order to regulate the use of the common parking area.

### SECTION 33 HAZARDOUS SUBSTANCES

(a) Notwithstanding any contrary provisions of this Lease whatsoever, including, without limitation, those pertaining to use and Permitted Use, Tenant shall not use, or permit the use of the Premises or the Real Property so as to create or result in, directly or indirectly, (a) any sudden or gradual spill, leak, discharge, escape, seepage, infiltration, abandonment, dumping, disposal or storage of any hazardous or industrial waste, substance or contamination, effluent, sewage, pollution or other detrimental or deleterious material or substance (including without limitation asbestos), or the disposal, storage or abandonment on the Real Property of any material, tank or container holding or contaminated by any of the foregoing or residues thereof, or the installation of any material or product containing or composed of any of the foregoing, in, on, from, under or above the Real Property (the foregoing occurrences being hereinafter collectively called "**Environmental Hazard**"), unless such Environmental Hazards are caused or exacerbated by the specific activities of Landlord or its employees, contractors, agents or tenants and/or were in existence at the Premises and/or the Real Property prior to Tenant's use of the Premises and/or the Real Property, or (b) any violation, or state of facts or condition which would result in a violation, of any federal, state or local statute, law, code, rule, regulation or order applicable to any Environmental Hazard (the foregoing being hereinafter collectively called "**Legal Violation**"). To the extent permitted by law, in the event of the violation of the foregoing by Tenant, in addition to all other rights and remedies of Landlord under this Lease, regardless of when the existence of the Environmental Hazard or Legal Violation is determined, and whether during the Term or after the Expiration Date, Tenant shall, immediately upon notice from Landlord, at Tenant's sole cost and expense, at Landlord's option, either (i) take all action necessary to test, identify and monitor the Environmental Hazard and to remove the Environmental Hazard from the Real Property and dispose of the same and restore the Real Property to the condition existing prior to such Environmental Hazard or Legal Violation, and/or to remedy any Legal Violation, all in accordance with applicable federal, state and local statutes, laws, codes, rules, regulations or orders; or (ii) reimburse Landlord for all reasonable costs and expenses incurred by Landlord (including, without limitation, for engineering or environmental consultant or laboratory services) in testing, investigating, identifying and monitoring the Environmental Hazard and in removing and disposing of the Environmental Hazard and in restoring the Real Property, and/or in remedying any Legal Violation, and Tenant shall defend, indemnify and save harmless Landlord and Others in Interest against and from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including without limitation reasonable architects' and attorneys' fees and disbursements which may be imposed upon or incurred by or asserted against Landlord and



Others in Interest, whether by any governmental authority, Tenant or other third party, by reason of any violation or alleged violation of any of the foregoing provisions of this Section.

(b) Landlord will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any Environmental Hazard or other environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect at the Building and/or the Real Property, that are or were in any way related to activity now conducted in, on, or in any way related to the Building or the Real Property, unless such Environmental Hazard or conditions or concerns are caused by the specific activities or negligence of Tenant, Tenant's employees, contractors or agents in the Premises or elsewhere at the Real Property. To the extent an Environmental Hazard exists, in connection with the foregoing, Landlord, shall, at its sole cost and expense, take all action necessary to test, identify and monitor any such Environmental Hazard or environmental or industrial hygiene conditions or concerns and to remove and/ or dispose of such Environmental Hazard or other environmental or industrial hygiene conditions or concerns from the Real Property and dispose of the same and restore the Real Property to the condition existing prior to such any environmental or industrial hygiene conditions or concerns, and/or to remedy any Legal Violation (as defined above), all in accordance with applicable federal, state and local statutes, laws, codes, rules, regulations or orders and Landlord shall defend, indemnify and save harmless Tenant, its agents, representatives, officers, shareholders, directors, employees and others in interest, its successors and assigns against and from all liabilities, obligations, losses, damages, actions, penalties, claims, costs, charges and expenses, including without limitation reasonable architects, consultants and attorneys' fees and disbursements or expenses of any nature whatsoever, which may be imposed upon or incurred by or asserted against Tenant and others in interest, whether by any governmental authority, Landlord or other third party, by reason of any violation or alleged violation of any of the foregoing provisions of this Section by Landlord or arising out of any past or future spillage, release, discharge, disposal, or placement in or upon the air, soil or water in, under or upon the Premises and/or the Real Property of any Environmental Hazard by anyone other than Tenant during the term of the Lease.

(c) This Section 33 shall survive the expiration or earlier termination of this Lease.

#### **SECTION 34**

##### **SIGNAGE**

Tenant shall have the right, at its own cost and expense, to erect, place and/or maintain its name, logos, other signage and/or notices(s) within the Premises, on the walls of elevator lobbies servicing the Premises, at the entrance doors servicing the Premises, as well as on existing or future building monument signs(s) and/or lobby directories, the subject matter, type, design, number, location and elevation of such signs, and whether lighted or unlighted as reasonably determined by Tenant. In addition, Tenant, shall have the right, at its own cost and expense, to erect or request Landlord to erect, place and/or maintain its name, logo and/or signage on the exterior Building façade, as Tenant may request, in compliance with all laws, rules and regulations and all governmental authorities. Any such name, logo, sign and/or notice shall be of such size, type, design, color, content and style, and whether lighted or unlighted as Tenant shall determine as reasonably approved by Landlord. Landlord shall, at Tenant's sole cost and expense, obtain or cooperate with Tenant to obtain all necessary permits and licenses for the installation of such signage, and maintain such signage in good condition throughout the term of the Lease.

#### **SECTION 35**

##### **ACCESS/SECURITY**

Tenant, subject to Force Majeure, shall have access to the Premises, twenty-four (24) hours per day, seven (7) days per week pursuant to procedures established by Landlord (but Landlord shall have no obligation to Tenant to remove any snow, ice or other obstructions except on business days during normal Building Hours). Common area lights and parking lot lights (as of sunset) shall be illuminated during normal Building Hours set forth herein. Landlord shall impose, temporarily from time to time, or permanently, upon Tenants' request, such security procedures as Tenant may deem

appropriate in its sole but reasonable discretion. This provision shall not impose upon Landlord any obligation to provide any services set forth herein beyond normal Building Hours, except for security services. Tenant shall have the right to install, at its sole expense, any and all additional and supplemental security systems it deems necessary in the Premises, in the ground floor lobby exclusively serving the Premises, on each of the three floors comprising the Premises and in the stairwells to and between such floors, provided: (a) Landlord shall be given a fob or other means to allow for access in accordance with the terms hereof and (b) such system shall be installed in accordance with the provisions of Section 6 hereof. Tenant shall be solely responsible for providing, at Tenant's sole cost, any and all personnel to staff the ground floor lobby exclusively serving the Premises and any and all security personnel for the Premises.

### **SECTION 36** **FLOOD HISTORY DISCLOSURE FORM**

Tenant acknowledges receipt of the Flood History Disclosure Form attached hereto as Exhibit I and made a part hereof. Tenant shall sign the attached Flood History Disclosure Form where indicated and shall return the same to Landlord with Tenant's execution and delivery of the Lease. Landlord shall sign the Flood History Disclosure Form and return a fully executed copy of the same to Tenant with, and at such time as Landlord shall delivery, a fully executed copy of the Lease to Tenant.

### **SECTION 37** **RIGHT OF FIRST OFFER**

(a) If Landlord, in its sole discretion, intends to lease additional premises at the 50 Main St. Building (as defined herein), during the Initial Term or any Extension Term to a third party, and provided that (i) this Lease shall be in full force and effect, (ii) Tenant is not then in default under the Lease beyond any applicable notice and cure periods, (iii) Tenant shall be in occupancy of the entire Premises, and (iv) the Tenant originally named herein shall not have assigned its interest in the Lease or sublet all or any part of the Premises (except in connection with a Permitted Transfer), Tenant then shall have a right of first refusal to lease such premises on the terms and conditions at which Landlord proposes to lease said premises to a third party. Landlord shall give Tenant written notice of such intent to lease and shall indicate the terms and conditions (upon which Landlord intends to lease said premises to an unrelated third party. Tenant thereafter shall have thirty (30) days to elect in writing to lease the contiguous premises **TIME SHALL BE OF THE ESSENCE WITH RESPECT TO ALL TIME PERIODS SET FORTH IN THIS SECTION 37**. If Tenant does not elect to lease the adjacent premises within the 45-day period specified, then Landlord shall be free to lease the adjacent premises to such third party pursuant to the proposed terms, and Tenant shall have no further rights under this Section as if had not been included in this Lease.

(b) If Landlord, in its sole discretion, intends to sell the Premises (as opposed to the entire Building, in which case this Section 37 shall not apply) during the Initial Term or any Extension Term to a third party, and provided that (i) this Lease shall be in full force and effect, (ii) Tenant is not then in default under the Lease and has not any time been in default under the Lease beyond any applicable notice and cure periods, (iii) no event or condition exists that, with notice and/or expiration of any grace period, would constitute a default by Tenant under the Lease, (iv) Tenant shall be in occupancy of the entire Premises, and (v) the Tenant originally named herein shall not have assigned its interest in the Lease or sublet all or any part of the Premises (except in connection with a Permitted Transfer), Tenant then shall have a right of first offer to purchase the Premises (the "**ROFO Option**") on the terms and conditions at which Landlord proposes to sell the Premises to a third party. Landlord shall give Tenant written notice of such intent to sell and shall indicate the terms and conditions (including the sale price) upon which Landlord intends to sell the Premises to an unrelated third party. Tenant thereafter shall have thirty (30) days to elect in writing to purchase the Premises and to execute a purchase and sale agreement with respect thereto and shall have an additional sixty (60) days to close on the acquisition of the Premises on the terms and conditions set forth in the notice provided by Landlord to Tenant; provided that prior to the execution of a binding purchase and sale agreement, Landlord shall retain the right to elect not to sell the Premises or to sell the entire Building, in which case any election by Tenant to purchase the Premises shall be null and void. **TIME SHALL BE OF THE ESSENCE WITH RESPECT TO ALL TIME PERIODS SET FORTH IN THIS SECTION 37**. If Tenant does not elect to purchase the Premises or does not close on the acquisition of the Premises within

the respective time periods specified, then Landlord shall be free to sell the Premises to any third party pursuant to such terms as Landlord shall determine in its sole discretion, and Tenant shall have no further rights under this Section as if had not been included in this Lease. If the price at which Landlord intends to sell the Premises to a third party, however, is less than 95% of the price set forth in the notice provided by Landlord to Tenant, then Landlord shall again offer Tenant the right to acquire the Premises upon the same terms and conditions, provided that Tenant shall have sixty (60) days thereafter to complete the acquisition at such price, terms and conditions.

(c) If the Lease or Tenant's right to possession of the Premises shall terminate in any manner whatsoever before Tenant shall exercise any option set forth in this section 37, or if Tenant shall have assigned (other than pursuant to a Permitted Transfer) or subleased its right to possess all or any portion of, the Premises, or Tenant shall be in default under the Lease beyond any applicable notice or cure period, then immediately upon such termination, sublease, or assignment or the expiration of such notice or cure period, the rights applicable to Tenant under this section 37 shall simultaneously terminate and become null and void and Tenant shall have no further rights under this Section as if it had never been included in this Lease. Under no circumstances whatsoever shall a subtenant under a sublease or any other occupant of all or any part of the Premises or any assignee of this Lease that is not pursuant to a Permitted Transfer or any successor to the interest of Tenant by reason of any action under the Bankruptcy Code, or by any public officer, custodian, receiver, United States Trustee, trustee or liquidator of Tenant or substantially all of Tenant's property, have any right to exercise the rights granted in Section 37 of this Lease. If Tenant shall have exercised any options in accordance with Section 37 hereof, such exercise (at Landlord's sole option) shall be deemed withdrawn if, at any time after the giving of notice of such election and prior to Tenant's acquisition of the Premises or space at 50 Main St. Building, Tenant shall sublease all or any part of the Premises or assign Tenant's interest in this Lease other than pursuant to a Permitted Transfer or be in default under the Lease beyond any applicable notice or cure period and, in such case, Tenant shall have no further rights under this Section as if it had never been included in this Lease. In addition, Tenant shall have absolutely no rights under this Section in connection with, any of the following: (i) any and all transfers of all or any portion of the Premises, or any interest therein, by means of judicial foreclosure, trustee's sale, deed in lieu of foreclosure or similar conveyance, (ii) any and all transfers or conveyances of any ownership interests in Landlord or any of the parties or entities comprising Landlord (including without limitation transfers of partnership interests, membership interests, and shares of common and/or preferred stock), (iii) any and all transfers of tenancy-in-common interests in the Premises by Landlord to, or by and among, the parties or entities comprising Landlord, (iv) the creation of any liens, encumbrances or security interests or the transfer of any interest in the Premises for security purposes, (v) any transfer by operation of law, (vi) any transfer to or from, and/or lease with, any industrial development agency or authority or similar agency or authority established under New York law, and (v) the transfer of all or any portion of the Premises, or any interest in the Premises, to any Affiliate of Landlord or any partner, member or shareholder of Landlord. As used in this Section, the term "Affiliate" shall mean: (i) any natural person, partnership, corporation, limited liability company and/or other legal entity directly or indirectly controlling, controlled by, or under common control with, Landlord; or (iv) any officer, director, member or manager of Landlord.

### **SECTION 38**

#### **TITLE AND OTHER REPRESENTATIONS**

Landlord hereby represents, warrants and covenants that it has good and sufficient title to and/or interest in the Real Property and has the right to receive rental payments from Tenant, that there are no title encumbrances that would affect Tenant's interest under this Lease or otherwise affect the use of the Premises for Tenant's intended use or the proper operation of Tenant's business at the Premises. Landlord further represents, covenants and warrants that it provided all the necessary documentation to evidence Landlord's title to the Real Property and allow Tenant to effect all rental and other fee payments under this Lease and to provide any updated rental documentation, as reasonably required by Tenant.



**SECTION 39**  
**INTENTIONALLY DELETED**

**SECTION 40**  
**INTENTIONALLY DELETED**

**SECTION 41**  
**MISCELLANEOUS**

(a) If any of the provisions of this Lease, or the application of such provisions, will be invalid or unenforceable, the remainder of this Lease will not be affected, and this Lease will be valid and enforceable to the fullest extent permitted by law.

(b) The submission of this Lease for examination does not constitute a reservation of, or option for, the Premises, and this Lease is submitted to Tenant for signature with the understanding that it will not bind Landlord unless and until it has been executed by Landlord and delivered to Tenant or Tenant's attorney or agent and until the holder of any mortgage will have unconditionally approved this Lease, to the reasonable satisfaction of Landlord, if such approval is required under the terms of such mortgage. Lender's approval shall be deemed given upon execution of a non-disturbance and attornment agreement by such lender.

(c) No representations or promises will be binding on the parties to this Lease except those representations and promises expressly contained in the Lease.

(d) The Section headings in this Lease are intended for convenience only and will not be taken into consideration in any construction or interpretation of this Lease or any of its provisions.

(e) Force Majeure means and includes those situations beyond either party's reasonable control, including acts of God; strikes; inclement weather or, where applicable, the passage of time while waiting for an adjustment of insurance proceeds. Any time limits required to be met by either party hereunder, whether specifically made subject to Force Majeure or not, except those related to the surrender of the Premises by the end of the Term or payment of Fixed Basic Rent or Additional Rent, will, unless specifically stated to the contrary elsewhere in this Lease, be automatically extended by the number of days by which any required performance is delayed due to Force Majeure.

(f) Tenant consents to the receipt of electronic messages from Landlord or its affiliates.

(g) The provisions of this Lease will apply to, bind and inure to the benefit of Landlord and its respective heirs, successors, legal representatives and assigns. The term "Landlord" as used in this Lease means only the owner or a master lessee of the Building or the condominium unit of which the Premises form a part, so that in the event of any sale of the Building or of any master lease thereof, the Landlord named herein will be and hereby is entirely freed and relieved of all covenants and obligations of Landlord under this Lease accruing after such sale, provided the purchaser or the new master lessee of the Building has assumed and agreed to carry out any and all covenants and obligations of Landlord accruing under this Lease after such sale in writing.

(h) Landlord reserves the right to temporarily alter Tenant's ingress and egress to the Building or make any change in operating conditions to restrict pedestrian, vehicular or delivery ingress and egress to a particular location, or at any time close temporarily any Common Facilities to make repairs or changes therein or to effect construction, repairs or changes within the Building, or to discourage non-tenant parking, and may do such other acts in and to the Common Facilities as in Landlord's sole but reasonable judgment may be desirable to improve their convenience.

(i) This Lease will be governed by the laws of the State (without the application of any conflict of laws principles), and any action or proceeding in connection with this Lease shall be decided in the courts of the State. In addition, the parties hereby agree that for any cause of action arising out of this Agreement shall be brought in the County of Westchester.

(j) Intentionally deleted.

(k) Tenant agrees not to disclose the terms, covenants, conditions or other facts with respect to this Lease, including the Fixed Basic Rent and Additional Rent, to any person, corporation, partnership, association, newspaper, periodical or other entity, except to Tenant's accountants or attorneys (who shall also be required to keep the terms of this Lease confidential) or as required by law. This non-disclosure and confidentiality agreement will be binding upon Tenant without limitation as to time, and a breach of this Section will constitute a material breach under this Lease. Furthermore, any inspection and/or audit Tenant is permitted to perform pursuant to this Lease shall be subject to Tenant and/or Tenant's Certified Public Accounting firm executing a confidentiality agreement reasonably acceptable to Landlord prior to the commencement of any such inspection and/or audit. In addition, Tenant's employees, contractors, etc. shall keep any of the terms and conditions of this Lease and any future inspections and/or audits, including any billing statements and/or any backup supporting those statements, confidential.

(l) Notwithstanding anything to the contrary contained in this Lease, in no event will Landlord or Tenant be liable to the other for the payment of consequential, punitive or speculative damages.

(m) If this Lease is signed by more than one party, their obligations shall be joint and several, and the release of any one such tenants shall not release any other of such tenants.

(n) This Lease may be executed in multiple counterparts, each of which, when assembled to include an original signature for each party contemplated to sign this Lease, will constitute a complete and fully executed original. All such fully executed counterparts will collectively constitute a single Lease agreement.

(o) Each party agrees that it will not raise or assert as a defense to any obligation under this Lease, or make any claim that this Lease is invalid or unenforceable, due to any failure of this document to comply with ministerial requirements, including requirements for corporate seals, attestations, witnesses, notarizations or other similar requirements, and each party hereby waives the right to assert any such defense or make any claim of invalidity or unenforceability due to any of the foregoing.

(p) All employees of Tenant located at the Premises will be entitled to use the Fitness Center in the building (the "**50 Main St. Building**") located at 50 Main Street, White Plains, New York at no charge, on a first come first served basis. Tenant also will have the right to use the Executive Dining Room, Board Room and Lecture Hall located in the 50 Main St. Building at no charge, subject to availability, provided however Landlord shall not have the right to cancel or reschedule Tenant's room reservations at any such facilities to accommodate other tenants or visitors. Use of the foregoing facilities shall be subject to such rules and regulations as may be in place at any time and from time to time so long as they are also applicable to tenants of the 50 Main St. Building.

(q) Each employee of Tenant located at the Premises will be eligible for a 15% credit (the "**Rent Credit**") to be applied to the base rent of any apartment he or she rents at the residential apartment building located at either 1 Martine Avenue, White Plains, New York or at 34 South Lexington Avenue, White Plains, New York (a/k/a The Metro). Any such employee wishing to use the Rent Credit, however, must independently qualify to lease an apartment at either of such buildings pursuant to the then current building's review and approval process. This provision shall not automatically entitle any such employee to rent an apartment at either building. In addition, in the event that two (2) or more of Tenant's employees wish to rent the same apartment at either of the foregoing buildings, the Rent Credit of only one employee may be applied against the base rent of such apartment.

(r) This Lease and the obligations of the parties hereunder are subject to the provisions of Section 362(3) of the New York County Law and the case law applicable to such section.

(s) This Lease Agreement shall be deemed executory only to the extent of money appropriated and allocated by the County of Westchester for the performance of the terms hereof, and no liability under this Agreement shall be incurred by the County of Westchester beyond moneys available for the purposes s hereof. Notwithstanding the foregoing, the Tenant will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which payments under this Lease may be made, including (i) making provisions

for such payment to the extent necessary on each annual budget submitted for the purpose of obtaining funding, and (ii) using reasonable efforts to have such portion of the budget approved. In the event of reduction in money so appropriated, the Tenant shall make reasonable efforts to obtain funds from other sources, if available.

(t) Landlord agrees to execute a Memorandum of this Lease, in form and substance satisfactory to Landlord, which will be held in escrow by Tenant until the December 1<sup>st</sup> Date. In the event a subordination and non-disturbance agreement between Tenant and Anticipated Mortgagee or a non-disturbance agreement with Mortgagee is not delivered as required under this Lease, then Tenant may record the Memorandum of Lease with the appropriate recording officer after the December 1<sup>st</sup> Date.

(u) This Lease has been approved by the Board of Legislators of the County of Westchester on the \_\_\_\_ day of \_\_\_\_\_, 2024, by Local Law and by the County Board of Acquisition and Contract by Resolution approved on the \_\_\_\_ day of \_\_\_\_\_, 2024. The Local Law and Resolution are both attached hereto and made a part hereof as Exhibit J.

(v) This Lease shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

[SIGNATURES ON NEXT PAGE]



THE PARTIES to this Lease have executed and delivered this Lease as of the date set forth above.

LANDLORD:

MG MARTINE SPE LLC

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

TENANT:

THE COUNTY OF WESTCHESTER

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

Approved:

\_\_\_\_\_  
Senior Assistant County Attorney  
The County of Westchester  
Westchester County DOH Lease(6165644.3).cmc 10.02.2024

ACKNOWLEDGMENT

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ 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.

Date: \_\_\_\_\_

\_\_\_\_\_

Notary Public

(LIMITED LIABILITY COMPANY)

was, at the time of execution, a manager of the LLC; that said Agreement was duly signed for and on behalf of said LLC and as the act of said LLC for the purposes therein mentioned.

(Signature)

STATE OF NEW YORK )  
COUNTY OF ) ss.:

(a) On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ 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 member/manager described in \_\_\_\_\_ and who executed the above certificate, who being by me duly sworn did depose and say that he/she resides at \_\_\_\_\_, and he/she is a member/manager of said LLC; that he/she is duly authorized to execute said certificate on behalf of said LLC, and that he/she signed his/her name thereto pursuant to such authority.

Date: \_\_\_\_\_

**Notary Public**

**EXHIBIT A**

**LOCATION PLAN OF PREMISES**

## **EXHIBIT B**

### **RULES AND REGULATIONS**

1. **OBSTRUCTION OF PASSAGEWAYS:** Tenant will not: (i) obstruct the sidewalks, entrance(s), passages, courts, elevators, vestibules, stairways, corridors and other public parts of the Building or the Related Facilities (including, the walkways and parking areas located thereon), or (ii) interfere with the ability of Landlord and other tenants to use and enjoy any of these areas, and (iii) use them for any purpose other than ingress and egress.
2. **WINDOWS:** Tenant will not cover or obstruct windows in the Premises. No bottles, parcels or other articles will be placed on the window sills, in the halls, or in any other part of the Building other than the Premises. No article will be thrown out of the doors or windows of the Premises.
3. **PROJECTIONS FROM BUILDING:** No awnings, air-conditioning units or other fixtures will be attached to the outside walls or the window sills of the Building or otherwise affixed so as to project from the Building, without the prior reasonable written consent of Landlord.
4. **SIGNS:** Tenant will not affix any sign or lettering to any part of the outside of the Premises, or any part of the inside of the Premises so as to be visible from the outside of the Premises, without the prior reasonable written consent of Landlord. However, Tenant will have the right to place its name on any door leading into the Premises, the size, color and style thereof to be subject to the Landlord's approval, which shall not be unreasonably withheld, conditioned or delayed.
5. **FLOOR COVERING:** Tenant will not lay linoleum or other similar floor covering so that the same will come in direct contact with the floor of the Premises. If linoleum or other similar floor covering is desired to be used, an interlining of builder's deadening felt will first be fixed to the floor by a paste or other material that may easily be removed with water. The use of cement or other similar adhesive material for this purpose is expressly prohibited.
6. **INTERFERENCE WITH OCCUPANTS OF BUILDING:** Tenant will not make, or permit to be made, any unseemly or disturbing noises or odors and will not interfere with other tenants or those having business with them. Tenant will keep all mechanical apparatus in the Premises free of vibration and noise which may be transmitted beyond the limits of the Premises.
7. **LOCK KEYS:** No additional locks or bolts of any kind will be placed on any of the doors or windows by Tenant. Tenant will, on the expiration or earlier termination of Tenant's tenancy, deliver to Landlord all keys to any space within the Building either furnished to or otherwise procured by Tenant, and in the event of the loss of any keys furnished, Tenant will pay to Landlord the cost thereof. Tenant, before closing and leaving the Premises, will ensure that all windows are closed and entrance doors locked. Nothing in this Section 7 will be deemed to prohibit Tenant from installing a security system within the Premises, provided: (1) Tenant obtains Landlord's consent which will not be unreasonably withheld or delayed; (2) Tenant supplies Landlord with copies of the plans and specifications of the system; (3) such installation will not damage the Building or any Common Facilities; (4) all costs of installation and removal (if required by Landlord) will be borne solely by Tenant; and (5) Landlord is afforded the security code or other means of access to the Premises for purposes permitted under the Lease.
8. **CONTRACTORS:** Tenant will not enter into any contract of any kind with any supplier of towels, water, toilet articles, waxing, rug shampooing, venetian blind washing, furniture polishing, lamp servicing, cleaning of electrical fixtures, removal of waste paper, rubbish or garbage, or other like service, nor will Tenant install or cause to be installed any machine of any kind (other than customary office equipment) in the Premises, other portions of the Building or the Real Property without the prior written consent of the Landlord, which shall not be unreasonably withheld, conditioned or delayed. Tenant will not employ any persons other than Landlord's janitors for the purpose of cleaning the Premises without the prior



written consent of Landlord which consent shall not be unreasonably withheld, conditioned or delayed. Landlord shall be responsible to Tenant for any loss of property from the Premises, however occurring, or for any damage to the effects of Tenant by such janitors or any of its employees, or by any other person or any other cause.

9. **PROHIBITED ON PREMISES:** Tenant will not conduct, or permit any other person to conduct, any auction upon the Premises, nor will Tenant manufacture or store, or permit others to manufacture or store, goods, wares or merchandise upon the Premises, without the prior written approval of Landlord, not to be unreasonably conditioned or withheld, except the storage in customary amounts of ordinary office supplies to be used by Tenant in the conduct of its business. Tenant will not permit the Premises to be used for gambling. Tenant will not permit any portion of the Premises to be occupied as an office for a public stenographer or typewriter, or for the manufacture or sale of intoxicating beverages, narcotics, tobacco in any form or as a barber or manicure shop or for any medical use, including medical testing on humans or animals. Canvassing, soliciting and peddling at the Real Property are prohibited, and Tenant will cooperate to prevent the same. No bicycles, vehicles or animals of any kind will be brought into or kept in or about the Real Property, except guide dogs.
10. **PLUMBING, ELECTRIC AND TELEPHONE WORK:** Plumbing facilities will not be used for any purpose other than those for which they were constructed; and no sweepings, rubbish, ashes, newspaper or other substances of any kind will be thrown into them. Waste and excessive or unusual amounts of electricity or water use is prohibited. When electric or communications wiring of any kind is introduced, it must be connected as directed by Landlord, and no stringing or cutting of wires will be allowed, except by prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed, and will be done by contractors reasonably approved by Landlord.
11. **MOVEMENT OF FURNITURE, FREIGHT OR BULKY MATTER:** Tenant shall have twenty-four (24) hours a day access to freight elevators and loading docks, at no additional charge to the Tenant, provided, however, the carrying in or out of freight, furniture or bulky matter of any description must take place after advance notice to the manager of the Building. The persons employed by Tenant for such work must provide liability insurance reasonably satisfactory to Landlord. There will not be used in the Building or Premises, either by Tenant or by others, any hand trucks except those equipped with rubber tires and side guards, and no hand trucks will be allowed in the elevators without the reasonable consent of the superintendent of the Building.
12. **SAFES AND OTHER HEAVY EQUIPMENT:** Landlord reserves the right to prescribe the weight and position of all safes and other heavy equipment so as to distribute their weight properly and to prevent any unsafe condition from arising. Tenant will not place a load upon any floor of the Premises exceeding the floor load per square foot area which it was designed to carry or which is allowed by law.
13. **ADVERTISING:** Landlord may prohibit any advertising by Tenant which in Landlord's reasonable opinion tends to impair the reputation of the Building or its desirability as a building for offices, and upon written notice from Landlord, Tenant will refrain from or discontinue such advertising.
14. **NON-OBSERVANCE OR VIOLATION OF RULES BY OTHER TENANTS:** Landlord will not be responsible to Tenant for non-observance or violation of any of these rules and regulations by any other tenant.
15. **BUILDING ACCESS:** Tenant shall be solely responsible for all persons who enter the Building through the ground floor lobby serving the Premises during Building Hours and at all other times.
16. **RESERVATION OF RIGHTS:** Landlord reserves to itself any and all rights not granted to Tenant hereunder, including the following:
  - a) the exclusive right to the use of the name of the Building for all purposes, except that Tenant may use the name as its business address and for no other purposes;

- b) the right to change the name or address of the Building, without incurring any liability to Tenant for doing so;
  - c) the right to install and maintain signs on the exterior of the Building;
  - d) the exclusive right to use and/or allow others to use the roof of the Building;
  - e) intentionally deleted; and
  - f) the right to grant to anyone the right to conduct any particular business or undertaking in the Building.
17. **AGREEMENT EXECUTORY.** This Agreement and the obligations of the parties hereunder are subject to the provisions of Section 362(3) of the New York County Law and the case law applicable to such section.
18. **ENFORCEABILITY.** This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

-- END --

## **EXHIBIT C**

### **WORK LETTER**

THE COUNTY OF WESTCHESTER (“**Tenant**”) and MG MARTINE SPE LLC (“**Landlord**”) are executing a written lease (“**Lease**”), covering 57,266 gross rentable square feet in the building at 11 Martine Avenue, White Plains, New York, as more particularly described in the Lease (“**Premises**”).

With respect to the construction work being conducted in or about the Premises, each party agrees to be bound by the approval and actions of their respective construction representatives. Unless changed by written notification, the parties designate the following individuals as their respective construction representatives:

FOR LANDLORD:  
Chris Lynch - clynch@gdcllc.com

FOR TENANT:

To induce Tenant to enter into the Lease (which is hereby incorporated by reference) and in consideration of the covenants contained in this Work Letter (this “**Work Letter**”), Landlord and Tenant agree as follows:

1. Landlord’s architect has prepared for Tenant’s review and approval of preliminary plans depicting the location and layout of the Premises shown on Exhibit A attached to the Lease (the “**Plan**”), which plans have been approved by Tenant, pursuant to the terms of the Lease. The Landlord’s Work must include all work required pursuant to the Tenant’s Work Letter dated September 28, 2023 attached hereto as Exhibit 1, Tenant’s final space plan, the approved final plans, which will not deviate in any material way from the Plan, with respect to the Premises location and layout, and the Work Letter, and provide detailed specifications regarding materials and design standards to be used for the renovation of the restrooms in Floors 14<sup>th</sup> and 15<sup>th</sup>. The renovation of the restrooms in Floors 14<sup>th</sup> and 15<sup>th</sup> shall conform with the design standards and materials utilized by the Landlord in the renovation of the restroom(s) in Floor 12<sup>th</sup>.
2. Landlord will file the Plan and any other necessary plans with the appropriate governmental agencies, if required. This Lease is expressly conditioned upon Landlord obtaining a building permit from the appropriate government official for the Work (as hereinafter defined), if required.
3. Landlord agrees, at its expense and without charge to Tenant (unless otherwise provided), to do the Work in the Premises as shown on the approved Plan described above and in Exhibit B attached hereto, which will be referred to as the “**Work**” in the following provisions of this Work Letter. For purposes of this Work Letter and the Lease, “**Building Standard**” will mean the type and grade of material, equipment and/or device designated by Landlord as standard for the Building. All items are Building Standard unless otherwise noted. All Work shall be performed by Landlord in a good and workmanlike manner in compliance with applicable law.
4. Landlord agrees to provide a construction schedule and progress reports to Tenant on completion of the Work during the construction process. Landlord shall hold weekly construction meetings that Tenant’s authorized representatives may attend. Tenant’s authorized representatives shall have the right to inspect the progress of construction from time to time. Landlord and Tenant shall conduct a final inspection of the Premises to determine any punch list items that must be completed by Landlord, prior to the Premises being considered Substantially Complete.
5. The installation or wiring of telephone and computer (data) outlets is not part of the Work. Tenant will bear the responsibility to provide its own telephone and data systems, as well as furniture, furnishing and equipment at Tenant’s sole cost and expense.
6. Changes in the Work, if necessary or requested by the Tenant and agreed to by Landlord, will be accomplished after the execution of the Lease and this Work Letter, and without

invalidating any part of the Lease or Work Letter, by written agreement between Landlord and Tenant (referred to as a “**Change Order**”). Each Change Order will be prepared by Landlord and signed by both Tenant and Landlord stating their agreement on all of the following:

- (a) The scope of the change in the Work;
  - (b) The cost of the change;
  - (c) The manner in which the cost will be paid; and
  - (d) Each and every Change Order will be signed by Landlord’s and Tenant’s respective construction representatives. In no event will any Change Order(s) be permitted without such authorizations. A 5% supervision fee plus 5% overhead charge will be added to the cost of any Change Order and to the cost of any other work to be performed by Landlord in the Premises after Landlord’s completion of the Work. If Tenant fails to approve any such Change Order within ten (10) days, it will be deemed disapproved in all respects by Tenant, and Landlord will not be authorized to proceed on it and Landlord shall continue with the Work as originally set forth in this Work Letter. Any increase in the cost of the Work or the change in the Work stated in a Change Order which results from Tenant’s failure to timely approve and return said Change Order will be paid by Tenant. Tenant agrees to pay Landlord the cost of any Change Order upon receipt of an invoice for the Change Order.
7. If Tenant elects to use any architect, whether or not suggested by Landlord, such architect shall be solely the Tenant’s agent with respect to the plans, specifications and the Work. If any change is made after completion of schematic drawings and prior to completion of final construction documents which result in a Change Order and additional costs, such costs will be the responsibility of the Tenant. For the avoidance of doubt, Landlord, at its expense, will engage an architect to prepare the plans and specifications for the Work, initial test-fits, and construction drawings. Landlord shall not be required to revise the Plans more than two (2) times to accommodate any Tenant requested changes.
8. The terms contained in the Lease (which includes all Exhibits to the Lease) constitute Landlord’s agreement with Tenant with respect to the Work.
9. Except as set forth in the last sentence of this paragraph, all Work within the Premises will become the property of Landlord upon installation. No refund, credit or, unless otherwise directed in writing by Landlord in accordance with the Lease, removal of any Work will be permitted at the expiration or earlier termination of the Lease. Items installed that are not integrated in any way with the Work (e.g., furniture and other trade fixtures) become the property of Tenant upon installation.
10. Landlord may permit Tenant and its agents to enter, as licensees only, the Premises prior to the date on which Landlord reasonably anticipates the Commencement Date to occur so that Tenant may install low voltage wiring, computer wiring, furniture, fixtures and equipment at the same time Landlord’s contractors are working in the Premises. The foregoing license to enter prior to the Commencement Date shall not be construed as occupancy of the Premises by Tenant, however, is conditioned upon:
- (a) Tenant’s general contractors, workmen and mechanics working in harmony and not interfering with the labor employed by Landlord, Landlord’s mechanics or contractors or by any other tenant or occupant of the Building or their general contractors, mechanics or contractors, if any;
  - (b) Tenant providing Landlord with evidence of Tenant’s contractors and subcontractors carrying such worker’s compensation insurance as required by law, commercial general liability and property insurance in amounts no less than the amounts set forth in Section 23 of the Lease. If at any time any disharmony or interference occurs by virtue of, directly or indirectly, the presence of Tenant or its contractors, workmen or mechanics in the Building, Landlord shall give forty-eight

(48) hours written notice to Tenant and within twenty-four (24) hours Tenant shall resolve any dispute so that the tenor of the construction process and the operation of the Building is returned to that which existed prior to Landlord's notice. Such entry will be deemed controlled by all of the terms, covenants, provisions and conditions of the Lease. Landlord will not be liable in any way for any injury, loss or damage which may occur to any of Tenant's decorations or installations made prior to the Commencement Date, the same being solely at Tenant's risk, except if caused by the gross negligence or willful misconduct of Landlord;

- (c) Intentionally omitted; and
  - (d) Such other condition or conditions as Landlord may reasonably impose.
11. No part of the Premises will be deemed unavailable for occupancy by Tenant, nor will any work which the Landlord is obligated to perform in such part of the Premises be deemed incomplete for the purpose of any adjustment of Fixed Basic Rent payable under the Lease, if minor details of construction, decoration or mechanical adjustments exist and the non-completion of such details does not materially interfere with the Tenant's use of such part of the Premises.
  12. This Work Letter is based on the materials and layouts set forth or referenced in this Work Letter. Any change to the materials and layout will require a recalculation of construction costs and any increases in costs shall be Tenant's responsibility. Such recalculation will not negate any other Section or provision of this Lease.
  13. All sums payable by Tenant to Landlord in connection with this Work Letter and any other work to be performed by Landlord within the Premises and billable to Tenant will be deemed Additional Rent.

-- END --



**EXHIBIT 1 TO WORK LETTER**

## **EXHIBIT D**

### **CLEANING SERVICES**

#### **12<sup>TH</sup>, 14<sup>TH</sup> and 15<sup>TH</sup> FLOORS**

The following services will be provided daily, except during Westchester County Holidays:

1. Vacuum clean all carpeted areas.
2. Sweep and dust mop all non-carpeted areas. Wet mop whenever necessary.
3. All office furniture such as desks, chairs, files, filing cabinets, etc. will be dusted with a clean treated dust cloth whenever necessary and only in surfaces clear of Tenant's personal property including but not limited to plants.
4. Empty wastepaper baskets and remove waste to designated areas.
5. All vertical surfaces within arm's reach will be spot cleaned to remove finger marks and smudges. Baseboard and window sills are to be spot cleaned whenever necessary.
6. All cleaning of cafeterias, vending areas, kitchen facilities and restrooms exclusively serving the Premises. Tenant may make necessary arrangements for cleaning these areas directly with Landlord's cleaning maintenance company.
7. Cleaning services will be performed Monday through Friday only
8. No cleaning service is provided on Saturday, Sunday and Westchester County Holidays.
9. Cartons or refuse in excess of that which can be placed in wastebaskets will not be removed. Tenant is responsible to place such unusual refuse in a Landlord designated trash dumpster.
10. Cleaning maintenance company will neither remove nor clean tea, coffee cups or similar containers. If such liquids are spilled in wastebaskets, the wastebaskets will be emptied but not otherwise cleaned. Landlord will not be responsible for any stained carpet caused from liquids leaking or spilling from Tenant's wastebaskets.
11. Glass entrance doors will be cleaned daily. Interior glass doors or glass partitions are excluded. Tenant may make arrangements for cleaning interior glass doors and partitions with Landlord's cleaning maintenance company.

#### **LOBBY AND COMMON AREAS**

The following services will be provided daily, except during Westchester County Holidays:

1. Vacuum all carpeting in entrance lobbies, outdoor mats and all corridors.
2. Wash glass doors in entrance lobby with a clean damp cloth and dry towel.
3. Sweep and/or wet mop all resilient tile flooring. Clean hard surface floors such as quarry tile, etc.
4. Wash, clean and disinfect water fountains.
5. Clean all elevator cabs and stairwells.
6. Lavatories -- Men and Women.
  - a. Floors in all lavatories will be wet mopped with a germicidal detergent to ensure a clean and germ free surface.

- b. Wash and polish all mirrors, shelves, bright work including any piping and toilet seats.
  - c. Wash and disinfect wash basins and sinks using a germicidal detergent.
  - d. Wash and disinfect toilet bowls and urinals.
  - e. Keep lavatory partitions, tiled walls, dispensers and receptacles in a clean condition using a germicidal detergent when necessary.
  - f. Empty and sanitize sanitary disposal receptacles.
  - g. Fill toilet tissue holders, towel dispensers and soap dispensers. Refills to be supplied by Landlord or its cleaning contractor.
- 7. Clean all air ventilation grill work in ceilings, whenever necessary.
  - 8. Lobby and Common Area cleaning services will be performed Monday through Friday only.
  - 9. No Lobby or Common Area cleaning service will be provided on Saturday, Sunday and Westchester County Holidays.
  - 10. Notwithstanding anything contained in this Lease to the contrary, the cleaning service furnished by Landlord shall not apply to the collection and removal of any medical waste. Tenant shall be solely responsible, and, at its sole cost and expense, shall directly contract with a medical waste company, for the removal of all of Tenant's medical waste in accordance with applicable Legal Requirements.

-- END --

**EXHIBIT E**

**WESTCHESTER COUNTY HOLIDAYS**

**BUILDING CLOSED**

\* NEW YEAR'S DAY \*

\* MARTIN LUTHER KING'S DAY \*

\* PRESIDENT'S DAY \*

\* MEMORIAL DAY \*

\* JUNETEENTH \*

\* INDEPENDENCE DAY \*

\* LABOR DAY \*

\* COLUMBUS DAY \*

\* VETERAN'S DAY \*

\* THANKSGIVING DAY \*

\* THANKSGIVING FRIDAY \*

\* CHRISTMAS DAY \*

-- END --

## EXHIBIT F

### TAX AND OPERATING COST RIDER

Tenant will pay in addition to the Fixed Basic Rent provided in this Lease, Additional Rent to cover Tenant's proportionate percentage ("**Tenant's Percentage**") of the increased cost to Landlord, which the parties acknowledge and agree that (i) with respect to Operating Costs attributable solely to the Commercial Portion is 100% and (ii) with respect to Operating Costs attributable to both the Commercial Portion and Residential Portion of the Building is 21.96% for all categories enumerated in this Exhibit, over the "**Base Period Costs**" for these categories. It is understood by the parties that the Tenant's Percentage is calculated based on the ratio between the total square footage of the Premises and the total square footage of the Building and that the Commercial Portion of the Building comprises the Premises (i.e., 57,266/260,628 x 100).

a. **Operating Cost Escalation** -- If the Operating Costs (defined below) incurred for the Premises for any Lease Year or Partial Lease Year during the Term will be greater than the Base Operating Costs (reduced proportionately to correspond to the duration of periods less than a Lease Year), then Tenant will pay to Landlord, as Additional Rent, all such excess Operating Costs ("**Excess Operating Costs**"). Operating Costs will include by way of illustration and not limitation: personal property taxes, if applicable; management fees; labor costs up to onsite property manager level, including all wages and salaries; social security and other taxes which may be levied against Landlord upon such wages and salaries; supplies; repairs and maintenance; maintenance and service contracts; painting; wall and window washing; tools and equipment (which are not required to be capitalized for federal income tax purposes); trash removal; lawn care; snow removal; all fire and other insurance costs, together with any deductibles (to the extent not separately charged to Tenant under Insurance Costs set forth in subsection (d) below), utility costs, including any applicable fuel surcharges and sales or use taxes, incurred for water, sewer and gas incurred by Landlord in connection with its operation and maintenance of the Commercial Portion of the Building. In addition Operating Costs will also include any costs incurred for portions of the Building attributable to both the Commercial Portion and Residential Portion of the Building and all other parts of the Real Property and the costs and expenses incurred in connection with the operation, maintenance and repair of the Related Facilities and allocated to the Real Property; maintenance and repair of the common elements of the condominium (if any) of which the Premises is a part; and all other items properly constituting direct operating costs according to industry standard accounting practices (collectively referred to as the "**Operating Costs**" in this Lease); but not including the following City Square costs in the calculation of Operating Costs: (i) the "Central Park" located in the center of the City Square, the parking garage, the second floor amenities in the 50 Main Street Building, including the Fitness Center, the Golf Simulator, the cafeteria, the Executive Board, the Dining Rooms, and the Lecture Hall), and not including depreciation of Building or equipment; interest; income or excess profits taxes; costs of maintaining the Landlord's corporate existence; franchise taxes; any expenditures required to be capitalized for federal income tax purposes, unless said expenditures are for the purpose of reducing Operating Costs at the Real Property, or those which under generally applied real estate practice and/or generally accepted accounting principles are expensed or regarded as deferred expenses or are required under any Legal Requirement, in which event the costs thereof shall be included. Any such included costs shall be amortized over the useful life of aforesaid improvement(s).

b. **Utility and Energy Cost Escalation** -- If the utility and energy costs, including any fuel surcharges or adjustments with respect thereto, incurred for water, sewer, gas, electric, heating, ventilating, air conditioning and any other utilities for the Commercial Portion of the Building and any portions of the Building attributable to both the Commercial Portion and Residential Portion of the Building, including all leased and leasable areas (not separately billed or metered within the Building), and Common Facilities electric, lighting, water, sewer and any other utilities for the Building and other portions of the Real Property (collectively, "**Utility and Energy Costs**"), for any Lease Year or Partial Lease Year during the Term will be greater than the Base Utility and Energy Costs (reduced proportionately to correspond to the duration of periods less than a Lease Year), then Tenant shall pay to Landlord, as Additional Rent, all such excess Utility and Energy Costs.

c. **Tax Escalation** -- If the Real Estate Taxes for the Real Property for any Lease Year or Partial Lease Year during the Lease Term will be greater than the Base Real Estate Taxes



(reduced proportionately to correspond to the duration of periods less than a Lease Year), then Tenant will pay to Landlord as Additional Rent, if applicable, Tenant's Percentage of all such excess Real Estate Taxes, ("**Excess Real Estate Taxes**").

As used in this Lease, "**Real Estate Taxes**" mean the property taxes and assessments imposed upon the Building and other portions of the Real Property, or upon the rent payable to the Landlord, including, but not limited to, real estate, city, county, village, school and transit taxes, or taxes, assessments, or charges levied, imposed or assessed against the Real Property by any taxing authority, whether general or specific, ordinary or extraordinary, foreseen or unforeseen.

Landlord, will have the exclusive right, but not the obligation, to contest or appeal any Real Estate Tax assessment levied on all or any part of the Real Property. While proceedings contesting or appealing the assessment for the Base Year or any Lease Year are pending, the computation and payment of Taxes will be based upon the original assessment for the years in question. Upon resolution of any such contest or appeal (as a result of settlement, final determination, legal proceedings or otherwise), Tenant shall pay, as Additional Rent, Tenant's Percentage of the costs and expenses of such contest or appeal, provided Landlord submits supporting documentation evidencing such costs and expenses, and any prior payments made by Tenant for any Lease Year after the Base Year shall be recalculated and Tenant shall pay to Landlord any deficiency between the payments previously paid by Tenant and the amount due as a result of such recalculation. If Base Real Estate Taxes are reduced, Tenant shall not be entitled to receive a Tax refund for the Base Year or any reduction of Fixed Basic Rent payable under the Lease. If during the Term Landlord shall obtain a refund for any Lease Year after the Base Year, Landlord shall credit to Tenant's account, Tenant's Percentage of any refund (but not more than the payment made by Tenant for the year in question), net of all costs and expenses incurred by Landlord including, without limitation, legal, appraisal and consulting fees.

d. **Insurance Cost Escalation** -- If the Insurance Costs for the Real Property for any Lease Year or Partial Lease during the Term will be greater than the Base Insurance Costs (reduced proportionately to correspond to the duration of periods less than a Lease Year), Tenant will pay to Landlord, as Additional Rent for each Lease Year or Partial Lease Year, Tenant's Percentage of such excess Insurance Costs, Year ("**Excess Real Estate Taxes**"). As used in the Lease, "**Insurance Costs**" means all fire and other insurance costs, together with any deductibles, incurred by Landlord in connection with its operation and maintenance of the Real Property for any Lease Year or Partial Lease Year during the Term

e. **Lease Year** -- As used in this Lease, Lease Year will mean a calendar year. Any portion of the Term which is less than a Lease Year, that is, from the Commencement Date through the following December 31, and from the last January 1 falling within the Term to the end of the Term, will be deemed a "**Partial Lease Year**". Any reference in this Lease to a Lease Year will, unless the context clearly indicates otherwise, be deemed to be a reference to a Partial Lease Year if the period in question involves a Partial Lease Year.

f. **Payment** -- Prior to each Lease Year, Landlord will give Tenant an estimate of amounts payable under this Rider for such Lease Year or Partial Lease Year. By the first day of each month during such Lease Year or Partial Lease Year, Tenant will pay Landlord one-twelfth (1/12th) of the estimated amount. If, however, the estimate is not given before such Lease Year or Partial Lease Year begins, Tenant will continue to pay by the first day of each month on the basis of last year's estimate, if any, until the month after the new estimate is given. As soon as practicable after each Lease Year or Partial Lease Year ends, Landlord will give Tenant a statement (the "**Statement**") showing the actual amounts payable by Tenant under this Rider for such Lease Year. If the Statement shows that the actual amount Tenant owes for such Lease Year or Partial Lease Year is less than the estimated amount paid by Tenant during such Lease Year or Partial Lease Year, Landlord, at Tenant's option, will either return the difference or credit the difference against the next succeeding payment(s) of Additional Rent. If the Statement shows that the actual amount Tenant owes is more than the estimated Additional Rent paid by Tenant during such Lease Year or Partial Lease Year, Tenant will pay the difference, within thirty (30) days after the Statement is delivered to Tenant, with supporting documentation.

g. **Books and Reports** -- Landlord will maintain books of account which, provided that Tenant has not breached this Lease, beyond any applicable cure periods, will be open to Tenant and its representatives at all reasonable times so that Tenant can determine that such Operating

and Real Estate Tax Costs have, in fact, been paid or incurred. Tenant's representatives will mean only (i) Tenant's employees or (ii) a Certified Public Accounting firm, and neither Tenant's employees nor any Certified Public Accounting firm will be permitted to perform such inspection and/or audit on a contingency basis or for any other tenant in the Building. At Landlord's request, Tenant and/or Tenant's Certified Public Accounting firm will execute a confidentiality agreement reasonably acceptable to Landlord prior to any examination of Landlord's books and records. In the event Tenant disputes any one or more of such charges, Tenant will attempt to resolve such dispute with Landlord, provided that if such dispute is not satisfactorily settled between Landlord and Tenant within thirty (30) days, then upon request of either party, the dispute will be referred to an independent certified public accountant to be mutually agreed upon to arbitrate the dispute and if such an accountant cannot be agreed upon, the American Arbitration Association may be utilized to select an arbitrator, provided the decision to utilize the American Arbitration Association is mutually agreed by the parties, in which event, the decision on the dispute by such arbitrator will be final and binding upon both parties, who will jointly share any cost of such arbitration.

h. **Right of Review** -- Once Landlord has finally determined the Operating, or Real Estate Tax Costs at the expiration of a Lease Year, then as to the item so established, Tenant will only be entitled to dispute such charge for a period of twelve (12) months after such charge is billed to Tenant and Tenant receives supporting documentation provided by the Landlord detailing the breakdown of all the Base Year Costs, and Tenant specifically waives any right to dispute any such charge any time after the expiration of said twelve (12) month period.

Notwithstanding anything hereinabove to the contrary, it is understood and agreed that the maximum amount of Tenant's Percentage of Controllable Excess Operating Costs (as hereinafter defined) payable in any Lease Year shall not exceed one hundred three percent (103%) of Tenant's Percentage of Controllable Excess Operating Costs paid or payable for the immediately preceding Lease Year (the "**Controllable Excess Operating Costs Cap**"). The foregoing Controllable Excess Operating Costs Cap shall apply on the total of Controllable Excess Operating Costs and not on a line item basis. The term "**Controllable Excess Operating Costs**" shall mean all Operating Costs other than Real Estate Taxes, Utility and Energy Cost and Insurance Costs, snow and ice removal, costs of complying with governmental regulations, employment costs **up to the Building management level**, based upon the minimum wage (including benefits), any expense increase arising from the unionization of any service rendered to the Building, management fees (capped at 3% of gross revenues collected in connection with the Building) and any other items out of Landlord's reasonable control, including, but not limited to: market-wide labor rate increases due to extraordinary circumstances, including boycotts and strikes, utility rate increases due to extraordinary circumstances, including conservation surcharges, boycotts, embargos or other shortages.

– END –

## **EXHIBIT G**

### **ELECTRICITY AND GENERATOR RIDER**

**ELECTRICITY**: On and immediately after the Commencement Date, electricity shall be supplied to the Premises in accordance with the provisions hereof in such reasonable quantities as may be required by Tenant to service Tenant's standard lighting and ordinary office equipment installed at the Premises as of the Commencement Date. Landlord shall furnish to Tenant the necessary wattage and electricity feeders for Tenant to use the Premises and operate all equipment installed therein, which wattage shall be no less than 6 watts per usable square foot, demand load (exclusive of base building HVAC and lighting).

(a) Intentionally deleted.

(b) Tenant shall purchase from Landlord, or from a meter company supplying electricity to the building or as reasonably designated by Landlord, all electricity consumed in the Premises and shall pay to Landlord or the meter company, as Additional Rent, the amounts for electricity consumed (the "**Electricity Rent**") determined by a meter or meters (measuring both consumption and demand) and related equipment installed (or, if existing, retrofitted) by Landlord in accordance with Landlord's specifications at Landlord's expense. Tenant, at its expense, shall at all times keep the meter and related equipment in good working order and repair. Tenant shall purchase the electricity from Landlord or the meter company at the actual rates ("**Landlord's Rate**") paid by Landlord to the utility company furnishing electricity to the Premises.

(c) It is hereby understood by the parties that the installation of a meter or sub-meter by Landlord is part of Landlord's Work, and shall be operational on the Commencement Date.

(d) Landlord's failure during the Term of the Lease to prepare and deliver any statement or bill hereunder, or Landlord's failure to make any demand hereunder, shall not in any way be deemed to be a waiver of, or cause Landlord to forfeit or surrender, its rights to collect any amount of Additional Rent that may become due pursuant to the terms hereof. Tenant's liability for any amounts due hereunder shall survive the expiration or sooner termination of the Term of the Lease.

(e) In the event that, at any time during the Term, it is not permissible for Landlord to furnish electricity on a sub-metering basis pursuant to the terms hereof, Landlord shall, at its cost, install a direct meter for the benefit of the Tenant.

(f) Tenant shall not make any electrical installation, alterations, additions or changes to the electrical equipment or appliances in the Premises without the prior written consent of Landlord in each instance, not to be unreasonably withheld, conditioned or delayed. Tenant shall comply with the rules and regulations applicable to the service, equipment, wiring and requirements of Landlord and of the utility company supplying electricity to the Building. Tenant covenants and agrees that its use of electricity in the Premises shall not exceed the capacity of existing feeders to the Building or the risers or wiring installations therein and Tenant shall not use any electrical equipment that, in Landlord's reasonable judgment, will overload such installations or interfere with the use thereof by other tenants in the Building. If, at any time during the Term, Tenant desires to install in the Premises equipment which would not be considered ordinary office equipment, including, but not limited to, items such as other heat or cooling intensive electrically operated equipment, Tenant shall submit to Landlord a list indicating the specific type of additional equipment, and the number, type and model of each item of equipment to be installed, as well as the manufacturer's electrical rating associated with same. If Landlord consents to the installation of such additional equipment in Landlord's sole but reasonable discretion, Landlord, at Tenant's cost and expense, prior to, and as a condition of Landlord's consent to, or simultaneously with or subsequent to, the installation thereof, may cause an electrical engineering consultant to make a survey of such additional equipment in accordance with the provisions of this subparagraph (e). Landlord reserves the right to inspect the Premises to insure compliance with this provision.

(g) Landlord will not be liable in any way to Tenant for any loss, damage or expense which Tenant may sustain or incur as a result of any failure, defect or change in the quantity or character of electrical energy available for redistribution to the Premises pursuant to this Exhibit I,

nor for any interruption in the supply, unless due to the negligence of Landlord, and Tenant agrees that such supply may be temporarily interrupted for inspections, repairs and replacements and in emergencies. In no event will Landlord be liable for any business interruption suffered by Tenant, unless due to Landlord's gross negligence or willful misconduct. Notwithstanding the foregoing to the contrary, Landlord will exercise best efforts to address any electricity failure or defect and to minimize any disruption or interruption to Tenant's business and operations. In addition, in the event of a scheduled Building electrical shutdown, Landlord shall provide at least thirty (30) days prior written notice to Tenant of such scheduled shutdown and minimize any disruption or interference with Tenant's use of the Premises.

(h) Tenant's failure or refusal, for any reason, to utilize the electrical energy provided by Landlord, shall not entitle Tenant to any abatement or diminution of Fixed Basic Rent or Additional Rent, or otherwise relieve Tenant from any obligations under the Lease.

(i) Landlord, at Landlord's expense, will furnish and install all replacement lighting tubes, lamps, ballasts, starters and bulbs required in the Premises.

(j) Tenant's use of electrical service in excess of Building Hours will, at Landlord's reasonable election, be cause for a resurveying of the Premises at Tenant's expense.

**GENERATOR:** The Landlord shall, at its own cost and expense, maintain any existing or future back-up generator servicing the Building's live safety systems in good condition and repair, in compliance with all Legal Requirements affecting the Building and the Premises and/or the Tenant's use and/or occupancy of the Premises, provided, however that if a generator does not currently exist, Landlord will have no obligation to install a generator.

– END –

**EXHIBIT H**  
**TENANT HVAC AIR QUALITY SPECIFICATIONS**

*Tenant's HVAC Air Quality Specifications are set forth in Exhibit 1 annexed to Exhibit C of this Lease.*



**EXHIBIT I**  
**WESTCHESTER COUNTY**  
**FLOOD HISTORY DISCLOSURE FORM**

Pursuant to Chapter 581 of the Laws of Westchester County, this form is required to be completed and presented to each prospective tenant for both residential and commercial leaseholds and sublets in Westchester County. See reverse for instructions.

Property Street Address: 11 Martine Avenue

Municipality: White Plains State: NY Zip: 10606

Tax ID: Section: 125 Block: 74 Lot: 5-3

Property Owner: MG Martine SPE LLC

Contact Name: David Paniccia

Contact Phone: 917-817-7411

Contact Email: dpaniccia@gdcilc.com

Flood Insurance Rate Map (FIRM) Panel #: 96119C

FIRM Zone: X Is the property located in a Special Flood Hazard Area? Yes ☐ No ☒

Within the past ten years, has the property been subject to flooding? Yes ☐ No ☒

If yes, describe any flood events and flood damage over the past ten years, including the approximate height the water reached: None.

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Describe any efforts that you have undertaken as a property owner to reduce flood risk: \_\_\_\_\_

- We raised the grade such that our first floor was above the FEMA flood elevation

- Where necessary we elevated utilities for the building

- Waterproofing materials were used on all areas that were below grade level such as basements and underground garages

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By signing below, I certify that I have received this Flood History Disclosure Form

Tenant Name (print): \_\_\_\_\_

Tenant Signature: \_\_\_\_\_

MG Martine SPE LLC

Owner Signature: By: \_\_\_\_\_ Date: \_\_\_\_\_

## HOW TO FIND THE TAX ID NUMBER FOR THE PROPERTY

Go to the Westchester Tax Parcel Viewer online map at <https://giswww.westchestergov.com/taxmaps/>. Enter the municipality in which the property is located. Enter the property address.

## HOW TO DETERMINE THE FEMA MAP PANEL AND DESIGNATED FLOOD ZONE FOR THE PROPERTY

Go to <https://msc.fema.gov/portal/home> and enter the property address. Special Flood Hazard Areas are in the 100-year floodplain (the 1% annual chance flood) and include zone VE (coastal flood areas) and zones A and AE (inland flood areas). The 500-year floodplain (the 0.2% annual chance flood) should also be noted on the form, but the Special Flood Hazard box should be checked "no." Areas labeled X are areas of moderate flood risk and should also be noted on the form and the box checked "no." If you have any questions, contact the Westchester County Department of Planning at (914) 995-4400.

## HOW TO DESCRIBE FLOOD HISTORY

Regardless of whether the property is located in a Special Flood Hazard Area on the Flood Insurance Rate Maps as described above, please describe any and all flood events associated with the building or property in the past ten years. This includes damages to the property or building, if the electricity or water service to the building needed to be shut off, and whether tenants needed to be displaced so that repairs could be made. This also includes the extent to which parking areas and/or separate storage areas on the property are subject to flooding. Property owners are also required to provide notification of where the water line was estimated on the premises.

## DESCRIBE EFFORTS TO REDUCE FLOOD RISK

For properties that are subject to flooding, please describe any efforts that you have taken to reduce the risks and damage associated with flooding. These can include purchasing flood insurance, installing backflow prevention valves, providing emergency lighting and emergency egress as well as more substantive issues as described in guidance documents such as [https://www.fema.gov/sites/default/files/2020-07/fema\\_P1037\\_reducing\\_flood\\_risk\\_residential\\_buildings\\_cannot\\_be\\_elevated\\_2015.pdf](https://www.fema.gov/sites/default/files/2020-07/fema_P1037_reducing_flood_risk_residential_buildings_cannot_be_elevated_2015.pdf).

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**NOTICE TO RENTERS:** This form is intended to provide you with information concerning flood risk associated with the property you may rent. The form itself does not protect you from losses associated with flooding. It is up to you to protect your personal property. Following are some options to consider.

**Purchase Insurance:** Flooding is the leading cause of natural disaster risk to health and property in the United States. On average, about 40% of all flood insurance claims come from outside high-risk flood areas. Your landlord's flood insurance will protect the building you rent in, but not your personal belongings from flood damage. A standard renter's insurance policy does not typically cover flooding. Low-cost renter's insurance, also called contents-only coverage, can start at \$100 a year and potentially protect you from thousands of dollars in flood damages. Learn more about how to get a contents-only policy from a local insurance agent.

**Be Prepared:** The first step in being prepared is understanding your risk. This form is intended to notify you of flood risk associated with the property you rent. You should understand this risk and take appropriate measures to reduce your risk and protect yourself and your belongings. Prepare a kit with flashlights, bottled water and other emergency supplies. Before a storm, make sure the batteries and other supplies are fresh and adequate. If you have special needs or functional disabilities, please consider registering with the County's special needs registry at <https://emergencyservices.westchestergov.com/information-and-alerts/special-needs-flyers>. This information will be provided to local first responders and emergency planners. For more information on how to prepare for flooding, visit <https://emergencyservices.westchestergov.com/severe-weather/flood-awareness>.

**EXHIBIT J**

**WESTCHESTER COUNTY**  
**BOARD OF LEGISLATORS**  
**AND**  
**BOARD OF ACQUISITION AND CONTRACTS**  
**APPROVALS**

Exhibit J

5816736.v2  
6165644.v3  
6203968.v2  
6207384.v2  
6208925.v2

## **EXHIBIT K**

### **STANDARD INSURANCE PROVISIONS** **(Landlord)**

1. Prior to commencing work, and throughout the term of the Agreement, the Landlord shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Landlord shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Landlord and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Landlord shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Landlord to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Landlord to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Landlord from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Landlord concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Landlord's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Landlord until such time as the Landlord shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Landlord maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Landlord. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Landlord shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-

Exhibit J

5816736.v2  
6165644.v3  
6203968.v2  
6207384.v2  
6208925.v2



If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- i. Premises - Operations.
- ii. Broad Form Contractual.
- iii. Independent Contractor and Sub-Contractor.
- iv. Products and Completed Operations.

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. "All Risks" Property Insurance, covering all risks of physical amounts, in commercially reasonable amounts to protect the Real Property and Related Facilities.

4. All policies of the Landlord shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Landlord.