

AGREEMENT OF LEASE (this “**Lease**”) made this ____ day of _____, 20__, by and between **METROPOLITAN TRANSPORTATION AUTHORITY** (“**MTA**”), a public benefit corporation of the State of New York, acting by and through **METRO-NORTH COMMUTER RAILROAD COMPANY** (“**Metro-North**”), a public benefit subsidiary corporation of MTA, both with offices at 347 Madison Avenue, New York, New York 10017 (MTA and Metro-North are collectively referred to herein as “**Landlord**”), and _____, a _____, with its principal office at _____ (“**Tenant**”).

Landlord and Tenant hereby covenant and agree as follows:

ARTICLE 1

BASIC LEASE PROVISIONS AND DEFINITIONS

1.1 Basic Lease Terms. The following provisions and definitions are presented here to facilitate convenient reference by the parties hereto, subject to further definition and elaboration in this Lease:

- (a) Landlord (Name and Address): Metropolitan Transportation Authority
acting by and through
Metro-North Commuter Railroad Company
347 Madison Avenue
New York, New York 10017
Attention: Director of Real Estate
Facsimile No.: 212-878-0162
- (b) Tenant (Name and Address): _____

Attention: _____
Facsimile No.: _____
- (c) Premises (Article 2, Schedule A): Space Number _____ as described in Section 2.2 below and more particularly described and depicted in the Premises Floor Plan annexed hereto and made a part hereof as Schedule A. If applicable, Tenant shall have the right to use the Storage Space in accordance with the terms of the Revocable Storage Space License annexed hereto and made a part hereof as Schedule C.
- (d) 1. Term (Article 3): Approximately _____ (__) years, unless earlier terminated as provided in this Lease.
2. Commencement Date: See Section 3.1
3. Rent Commencement Date: The earlier of (x) the date that is _____ (__) days following the Commencement Date or (y) the date Tenant opens for business to the general public within all or any part of the Premises.
4. Expiration Date: 11:59 P.M. on the last day of the month in which occurs the day which immediately precedes the _____ (__) anniversary of the Rent Commencement Date.
- (e) 1. Minimum Rent (Article 4): As set forth on Attachment 1 attached hereto
2. Prepaid Rent Amount: \$_____ (i.e., an amount equal to one (1) full month’s Minimum Rent at the initial rate set forth in Attachment 1 attached hereto).

3. Percentage Rent Rate: _____ Percent (___%)
- (f) Wire Transfer Instructions/
Mailing Address for Rent Payments: Rent payments shall be made by the wire transfer of funds in accordance with the wiring instructions set forth on Attachment 3 hereof, or by money order or check to the following lockbox:
Metropolitan Transportation Authority
MTA GCT – General Post Office
P.O. Box 29592
New York, New York 10087-9592
- (g) Permitted Use (Article 5): _____ (subject to all of the terms of this Lease), and for no other purpose.
- (h) Trade Name (Article 5): _____
- (i) Operating Hours (Article 5): General Retail: 8:00 A.M. through 8:00 P.M. on Mondays through Fridays, 10:00 A.M. through 8:00 P.M. on Saturdays, and 11:00 A.M. through 6:00 P.M. on Sundays
- (j) Security Amount: \$_____ (as increased pursuant to Section 31.1)
- (k) Advertising and Promotion Contribution: \$_____ per annum, subject to a three percent (3%) annual adjustment pursuant to Article 21.
- (l) Tenant’s Initial Plans Review Fee (Article 6): \$5,000.00/\$10,000.00
- (m) Guarantor: _____
- (n) Required Opening Date: The date which is _____ (___) days following the Commencement Date
- (o) Tenant’s Federal Tax Identification Number: **[TENANT TO PROVIDE]**

1.2 Definitions. All capitalized terms contained in this Lease shall have the meanings set forth in this Section 1.2 unless otherwise expressly provided in this Lease.

“**ADA**” shall mean the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq. (as amended from time to time) and all regulations promulgated under or pursuant thereto.

“**Additional GCT Insured**” shall have the meaning ascribed to such term in Section 16.1.1.

“**additional rent**” shall have the meaning ascribed to such term in Section 4.1.

“**Advertising and Promotion Contribution**” shall have the meaning ascribed to such term in Section 21.1.2.

“**Affiliate**” shall have the meaning ascribed to such term in Section 29.3.

“**Annual Gross Sales Statement**” shall have the meaning ascribed to such term in Section 4.3.2.

“**Annual Steam Charge**” shall have the meaning ascribed to such term in Section 8.4.2.

Section 6.3. “**Architectural Design Criteria**” shall have the meaning ascribed to such term in

“**Audit Period**” shall have the meaning ascribed to such term in Section 4.5.

“**Building**” shall have the meaning ascribed to such term in Section 2.2.2.

Section 16.3. “**Certificate Requirements**” shall have the meaning ascribed to such term in

Section 6.3. “**City Approval Agencies**” shall have the meaning ascribed to such term in

Section 3.1. “**Commencement Date**” shall have the meaning ascribed to such term in

“**control**”, “**controlled by**” and “**under common control with**” shall have the meaning ascribed to such terms in Section 29.3.

“**Corporate Purposes Termination Notice**” shall have the meaning ascribed to such term in Section 29.2.

“**Declaration**” shall have the meaning ascribed to such term in Section 5.1.

Section 4.7. “**Default Interest Rate**” shall have the meaning ascribed to such term in

“**Energy CPI**” shall mean the Fuels and Utilities component of the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, New York-Northeastern New Jersey Area (1982-84=100), or any successor index thereto, appropriately adjusted; provided that if there shall be no successor index, a substitute index shall be reasonably selected by Landlord.

“**Event of Default**” shall have the meaning ascribed to such term in Section 17.1.

“**FDNY**” shall have the meaning ascribed to such term in Section 6.3.

Section 5.7. “**failure to do business**” shall have the meaning ascribed to such term in

“**GCT Lease**” shall have the meaning ascribed to such term in Section 13.1.

“**Gross Sales**” shall have the meaning ascribed to such term in Section 4.4.1

Section 4.4.1. “**Gross Sales Exclusions**” shall have the meaning ascribed to such term in

4.5. “**Gross Sales Records**” shall have the meaning ascribed to such term in Section

section 4.6. “**Gross Sales Records Default**” shall have the meaning ascribed to such term in

“**Guaranty**” shall have the meaning ascribed to such term in Section 31.5, if applicable.

Section 9.3. “**Hazardous Substances**” shall have the meaning ascribed to such term in

Section 6.4. “**Improvement Contractor**” shall have the meaning ascribed to such term in

“**Indemnitees**” shall have the meaning ascribed to such term in Section 12.1.

“**Initial Steam Charge**” shall have the meaning ascribed to such term in Section 8.4.2.

“**Insurance Requirements**” shall have the meaning ascribed to such term in Section 9.2.

“**Land**” shall have the meaning ascribed to such term in Section 13.1.

“**Landlord’s Construction Requirements**” shall have the meaning ascribed to such term in Section 6.3.

“**Landlord**” shall have the meaning ascribed to such term in the Preamble.

“**Lease Year**” shall mean the period commencing on the Rent Commencement Date and ending on the last day of the calendar month in which occurs the first (1st) anniversary of the day preceding the Rent Commencement Date, and each period of twelve (12) full calendar months thereafter, except that the final Lease Year shall, in all events, end upon the expiration or earlier termination of this Lease.

“**Leasing Agent**” shall have the meaning ascribed to such term in Article 26.

“**Legal Requirements**” shall have the meaning ascribed to such term in Section 9.1.

“**License Term**” shall have the meaning ascribed to such term in Schedule C, if applicable.

“**Marketing Fund**” shall have the meaning ascribed to such term in Section 21.1.1.

“**Mechanical and Electrical Tenant Design Criteria**” shall have the meaning ascribed to such term in Section 6.3.

“**Midtown Trackage**” shall have the meaning ascribed to such term in Section 12.1.

“**Monthly Gross Sales Statement**” shall have the meaning ascribed to such term in Section 4.3.2.

“**Notice**” shall have the meaning ascribed to such term in Article 24.

“**Partial Lease Year**” shall mean any portion of the Term which is less than a full Lease Year, and computations requiring proration shall be made on a per diem basis using a 365-day year.

“**Percentage Rent**” shall have the meaning ascribed to such term in Section 4.3.

“**Percentage Rent Base Amount**” shall mean, for any Lease Year, an amount equal to the quotient obtained by dividing (x) the Minimum Rent payable by Tenant with respect to such Lease Year by (y) the Percentage Rent Rate (expressed as a decimal). If, for any reason, the Minimum Rent payable by Tenant for all or any portion of a Lease Year shall be abated or reduced, then the Percentage Rent Base Amount for such Lease Year shall be proportionately reduced.

[IF THE BREAKPOINT IS NOT NATURAL, THE ABOVE DEFINITION WILL BE DELETED AND REPLACED WITH THE FOLLOWING:]

[“Percentage Rent Base Amount” shall mean, for any Lease Year, the amount set forth on Attachment 2 annexed hereto. The Percentage Rent Base Amount shall be prorated on a per diem basis for any Lease Year which is more or less than twelve (12) full calendar months. If, for any reason, the Minimum Rent payable by Tenant for all or any portion of a Lease Year shall be abated or reduced, then the Percentage Rent Base Amount for such Lease Year shall be proportionately reduced.]

5.1. “**Permitted Exceptions**” shall have the meaning ascribed to such term in Section 5.1.

“**Premises**” shall have the meaning ascribed to such term in Section 2.2.1.

“**Prohibited Tenant Work**” shall have the meaning ascribed to such term in Section 6.1.

“**Protected Trademarks**” shall have the meaning ascribed to such term in Section 21.3.

“**Public Areas**” shall have the meaning ascribed to such term in Rule 1 of Schedule B.

“**Railroad**” shall have the meaning ascribed to such term in Section 29.2.

“**Records Request**” shall have the meaning ascribed to such term in Section 4.6.

“**Rent**” shall have the meaning ascribed to such term in Section 4.1.

“**Required Bond Improvement**” shall have the meaning ascribed to such term in Section 6.4.

“**Restricted Area**” shall mean the following radius around Grand Central Terminal: the area bounded by Third Avenue to the east (including the east side of Third Avenue), Sixth Avenue to the west (including the west side of Sixth Avenue), 50th Street to the north (including the north side of 50th Street), and 35th Street to the south (including the south side of 35th Street).

27. “**Rules and Regulations**” shall have the meaning ascribed to such term in Article 27.

“**Safety Violation Notice**” shall have the meaning ascribed to such term in Section 17.1.

“**Storage Space**” shall have the meaning ascribed to such term in Schedule C, if applicable.

“**Storage Space Fee**” shall have the meaning ascribed to such term in Schedule C, if applicable.

4.6. “**Submission Period**” shall have the meaning ascribed to such term in Section 4.6.

“**Successor Landlord**” shall have the meaning ascribed to such term in Section 13.3.

“**Superior Lease Termination Date**” shall have the meaning ascribed to such term in Section 10.3.

“**Superior Lease**” shall have the meaning ascribed to such term in Section 13.1.

“**Superior Lessor**” shall have the meaning ascribed to such term in Section 13.1.

“**Superior Mortgage**” shall have the meaning ascribed to such term in Section 13.1.

“**Superior Mortgagee**” shall have the meaning ascribed to such term in Section 13.1.

“**Tenant**” shall have the meaning ascribed to such term in the Preamble.

“**Tenant Parties**” and “**Tenant Party**” shall have the meaning ascribed to such terms in Section 12.1.

“**Tenant’s Approved Final Plans**” shall have the meaning ascribed to such term in Section 6.6.

“**Tenant’s Broker**” shall have the meaning ascribed to such term in Article 26, if applicable.

“**Tenant’s Initial Improvements**” shall have the meaning ascribed to such term in Section 6.6, if applicable.

“**Tenant’s Initial Plans Review Fee**” shall have the meaning ascribed to such term in Section 6.6(e).

“**Tenant’s Plans**” shall have the meaning ascribed to such term in Section 6.2.

“**Tenant’s Property**” shall have the meaning ascribed to such term in Section 6.9.

“**Tenant’s Submission I Plans**” shall have the meaning ascribed to such term in Section 6.6.

“**Tenant’s Submission II Plans**” shall have the meaning ascribed to such term in Section 6.6.

“**Tenant’s T/R Share**” shall have the meaning ascribed to such term in Section 7.6.4.

“**Tenant’s Trash Removal Charge**” shall have the meaning ascribed to such term in Section 7.6.4.

“**Tenant’s Work**” shall have the meaning ascribed to such term in Section 6.1.

“**Term**” shall have the meaning ascribed to such term in Section 3.1.

“**Termination Date**” shall have the meaning ascribed to such term in Section 10.3.

“**Undertaking**” shall have the meaning ascribed to such term in Section 6.4.

ARTICLE 2

DEMISE OF PREMISES

2.1 Demise. Landlord hereby leases to Tenant and Tenant hereby takes and hires from Landlord the Premises for the Term, at the Rent and upon all of the covenants, conditions, limitations and agreements herein contained.

2.2 Premises, Appurtenant Rights.

2.2.1 The “**Premises**” consists of that portion of the Building known as the Space Number set forth in Section 1.1 hereof and more particularly described and depicted in Schedule A hereof. If applicable, Tenant shall have the right to use the Storage Space in accordance with the terms set forth in Schedule C hereof.

2.2.2 The “**Building**” shall mean Grand Central Terminal, located at Vanderbilt, Park and Lexington Avenues and East 42nd Street in the City and State of New York, together with the columns, footings, supports, foundations and other members and structures supporting said building, together with all improvements now or hereafter located therein, and all systems, fixtures and equipment used in or necessary to the operation thereof. Tenant shall have the non-exclusive right to use in common with others, for the purposes for which the same have been designed, the public portions of the Building, and the pipes, ducts, conduits, wires and equipment which service the Premises in common with other parts of the Building, provided that such use shall be subject to such rules and regulations as Landlord shall promulgate from time to time.

2.3 Landlord’s Reservations.

2.3.1 Landlord reserves the right from time to time: (a) to install, use, maintain, repair, replace and relocate shafts, pipes, ducts, conduits, wires, risers and other facilities and appurtenant fixtures in the Premises, the ceiling above the Premises, the walls adjacent to the Premises, and in other parts of the Building, and (b) to alter or relocate any facility, whether located in the Premises or in other parts of the Building. In performing such work, Landlord shall exercise reasonable efforts to minimize interference with Tenant's use of the Premises (it being understood that the foregoing shall in no event obligate Landlord to do any such work on an overtime or accelerated basis).

2.3.2 Landlord reserves the right from time to time to erect, install, replace and remove any structures and/or decorative items in the Building and in any other common areas, spaces and facilities in or about the Building; to designate the days and hours during which any of such areas shall be open to the public; to close temporarily or permanently all or any portion of such areas for any purpose; to erect any gate, chain or other obstruction or to close off any portion of the Building to the public at any time to the extent, and for the period, that Landlord determines the same is necessary to prevent a public dedication thereof or the accrual of any rights to any person or to the public therein, or to prevent injury to persons or property, or as may be required in connection with railroad operations, and, in connection therewith, to seal off all entrances to the Building, or any portion thereof (provided that any such actions to prevent dedication thereof or the accrual of any rights to any person or to the public therein shall be taken outside of Tenant's Operating Hours, if and to the extent reasonably feasible in the sole discretion of Landlord). Tenant acknowledges and agrees that all such common areas, spaces and facilities in or about the Building shall be subject to the control and management of Landlord. Landlord shall have no liability to Tenant for any actions taken by Landlord (or by its agents or employees) in accordance with the provisions of this Section 2.3.2 and no such actions shall constitute an actual or constructive eviction from the Premises, in whole or in part.

2.3.3 Landlord shall have no liability to Tenant for any increase, reduction or change to the design, size, height, layout or location of the Building, and/or the common areas and facilities now or at any time hereafter forming a part of the Building, or for the creation, maintenance and/or discontinuance, temporarily or permanently, of the means of ingress and egress to and from the Building or for the adoption and/or enforcement against Tenant of any security procedures and requirements adopted by Landlord pursuant to Section 2.3.4 below. Tenant agrees that the design of the Building and the design, arrangement and location of the common areas and the exits and entrances to the Building are solely at Landlord's discretion, and that Tenant is not relying on any representations made by Landlord, Landlord's agents or anyone else in this regard or in any other regard as an inducement to entering into this Lease.

2.3.4 Landlord may, from time to time, in its sole discretion, upon notice to Tenant, adopt any security procedures and requirements determined by Landlord to be necessary or desirable for protection of persons or property or modify any then existing security procedures and requirements. Such security procedures and requirements may, at Landlord's election, be included within and become a part of the Rules or Regulations or be adopted by Landlord separate and apart from the Rules and Regulations.

ARTICLE 3

TERM

3.1 Term; Commencement and Expiration Dates. The term of this Lease (the "**Term**") shall commence upon the Commencement Date and shall expire on the Expiration Date, unless extended or sooner terminated pursuant to the provisions of this Lease or by law. The "**Commencement Date**" shall be the date upon which Landlord shall deliver possession of the Premises to Tenant. Tenant shall, within ten (10) days of request therefor by Landlord, execute, acknowledge and deliver to Landlord an instrument in form reasonably satisfactory to Landlord confirming the Commencement Date, the Rent Commencement Date and the Expiration Date of this Lease, provided, however, that Tenant's failure to execute, acknowledge and deliver such instrument shall not affect the determination of the Commencement Date, the Rent Commencement Date or the Expiration Date. The taking of occupancy or possession of the whole or any portion of the Premises by Tenant for the performance of Tenant's Initial Improvements or otherwise shall be conclusive evidence that (a) Tenant accepts possession of the Premises in its then "as is" condition as of the date of such occupancy, and (b) the Premises and the Building were in good and satisfactory condition as of such date. Tenant covenants and

agrees that if permission is given to Tenant to enter into possession of all or any portion of the Premises prior to the Commencement Date with respect to all or such portion of the Premises, then such occupancy shall be deemed to be under all the terms, covenants, conditions and provisions of this Lease.

3.2 Failure to Deliver Possession. If Landlord is unable to give possession of all or any portion of the Premises on any given date for any reason, then Landlord shall not be subject to any liability for failure to give possession on said date and the validity of this Lease shall not be impaired under such circumstances, nor shall such circumstances be construed in any way to extend the Term. Tenant hereby acknowledges that the Commencement Date hereunder is indeterminate and shall occur only as provided in Section 3.1 above. Tenant, therefore, waives any right to rescind this Lease under Section 223-a of the Real Property Law of the State of New York or any successor law of like import then in force, and agrees that the provisions of this Section 3.2 are intended to constitute “an express agreement to the contrary” within the meaning of said RPL Section 223-a.

ARTICLE 4

RENT

4.1 Agreement to Pay Rent; Landlord’s Mailing Address; Wire Transfer Instructions. Tenant agrees to pay to Landlord, without setoff, deduction, counterclaim or previous demand therefor, in lawful money of the United States, the Minimum Rent, Percentage Rent and all other sums and charges hereinafter set forth payable by Tenant (such other sums and charges being collectively referred to herein as “**additional rent**”; Minimum Rent, Percentage Rent and additional rent are collectively referred to herein as “**Rent**”). Payments of Rent shall be made by the wire transfer of funds in accordance with the wiring instructions set forth in Section 1.1 (or as Landlord may designate from time to time), or by money order or check drawn on a bank which clears through the New York Clearinghouse Association or Federal Reserve Bank of New York, payable to the order of “MTA/Metro-North” (or to such other payee as Landlord may designate from time to time), and mailed to Landlord’s mailing address for Rent set forth in Section 1.1 (or such other place as Landlord may designate from time to time). If Tenant fails to pay any Rent under this Lease as and when due, Landlord shall have the same rights and remedies as are available to Landlord in the event of Tenant’s failure to pay Minimum Rent due hereunder.

4.2 Minimum Rent; First Month’s Minimum Rent. Minimum Rent shall be payable at the rates set forth on Attachment 1 attached hereto in equal monthly installments, in advance, on or before the first day of each month during the Term. Simultaneously with the execution of this Lease, Tenant has paid to Landlord (a) the Prepaid Rent Amount set forth in Section 1.1 and same shall be applied to the first (1st) full monthly installment of Minimum Rent due hereunder, (b) the Security Amount set forth in Section 1.1, subject to a credit for any security deposit presently held by Landlord under any existing lease with Tenant, if applicable, and (c) the Tenant’s Initial Plans Review Fee in consideration of Landlord’s review of Tenant’s Plans for Tenant’s Initial Improvements, as set forth in Sections 1.1 and 6.6(e). Notwithstanding the foregoing, so long as no Event of Default shall exist and be continuing hereunder, Minimum Rent only shall be abated for the period from the Commencement Date through and including the date immediately preceding the Rent Commencement Date. In the event that the Rent Commencement Date shall be other than the first day of a month, Minimum Rent for such month shall be appropriately prorated.

4.3 Percentage Rent.

4.3.1 In addition to the Minimum Rent and all other rents and charges reserved hereunder and as part of the total Rent to be paid, Tenant agrees to pay to Landlord as Rent for each Lease Year or portion thereof during the Term, an amount (“**Percentage Rent**”) equal to the product of (a) the Percentage Rent Rate multiplied by (b) the amount by which (i) Tenant’s Gross Sales for such Lease Year exceeds (ii) the Percentage Rent Base Amount for such Lease Year. For the purposes of computing the amount of Percentage Rent due, if any, each Lease Year shall be considered as an independent accounting period and no charge or credit may be taken in any subsequent Lease Year on account of any Gross Sales in any prior Lease Year. Tenant’s obligation under this Section 4.3 shall survive the expiration or early termination of this Lease.

4.3.2 Percentage Rent shall be determined and paid, without any prior demand therefor, as follows:

(a) Not later than the fifteenth (15th) day of each month during the Term (including, without limitation, the fifteenth (15th) day of the month subsequent to the month during which this Lease shall have terminated or expired), Tenant shall deliver to Landlord a true, correct and complete statement (each such statement, a “**Monthly Gross Sales Statement**”) in the form from time to time provided by Landlord, showing (i) the Gross Sales made (A) in the immediately preceding calendar month and (B) for the entire elapsed portion of the Lease Year, including the immediately preceding month, and including a detailed itemization of all permissible exclusions therefrom as set forth in Section 4.4.1, (ii) all installments of Percentage Rent theretofore made by Tenant in respect of such Lease Year and (iii) a calculation of the installment of Percentage Rent then due (as hereinafter set forth). Simultaneously with the rendition of each such statement, Tenant shall pay to Landlord an installment of Percentage Rent equal to the product of the Percentage Rent Rate multiplied by the excess of (a) Tenant’s Gross Sales for the entire elapsed portion of the current Lease Year, including the immediately preceding month, over (b) the Percentage Rent Base Amount for such Lease Year multiplied by a fraction, the numerator of which is the number of full calendar months in such elapsed portion of the current Lease Year, and the denominator of which is 12 (or, if the number of months in a given Lease Year is less than 12, then the number of full calendar months (or fraction thereof) in such Lease Year), less the aggregate installments of Percentage Rent previously paid by Tenant in respect of such current Lease Year.

(b) Not later than thirty (30) days after the close of each Lease Year (including, without limitation, any Lease Year ending upon the expiration or termination of this Lease), Tenant shall deliver to Landlord, a true, correct and complete statement (each such statement, an “**Annual Gross Sales Statement**”) for such Lease Year setting forth (i) Gross Sales for such Lease Year (including, without limitation, a detailed itemization of all permissible exclusions therefrom as set forth in Section 4.4.1), (ii) the amount of the Percentage Rent Base Amount, (iii) a computation of the Percentage Rent for such Lease Year, (iv) the aggregate amount theretofore paid by Tenant in respect of Percentage Rent for such Lease Year and (v) the amount by which the aggregate amount paid by Tenant in respect of Percentage Rent for such Lease Year exceeds or is less than, as the case may be, the amount of Percentage Rent for such Lease Year as set forth on such statement, which statement shall be certified by an independent certified public accountant to be in accordance with the requirements of Section 4.4 below as having been prepared in accordance with generally accepted accounting principles. If the aggregate amount paid by Tenant with respect to Percentage Rent for such Lease Year shall be less than the Percentage Rent for such Lease Year, then simultaneously with the rendition of such statement, Tenant shall pay to Landlord the amount of such deficiency. If the aggregate amount paid by Tenant with respect to Percentage Rent for such Lease Year shall be greater than the Percentage Rent for such Lease Year, then, so long as no Event of Default shall exist and be continuing hereunder, Landlord shall credit against the next monthly installments of Rent due the amount of such overpayment. Any payment timely made by Tenant theretofore and any credit given by Landlord pursuant to this clause shall be without interest thereon. The acceptance by Landlord of payments of Percentage Rent or reports of Gross Sales (including, without limitation, Monthly Gross Sales Statements and Annual Gross Sales Statements) shall be without prejudice to Landlord and shall in no event constitute a waiver of Landlord’s right to claim a deficiency or to audit Tenant’s books and records as provided herein.

4.4 “Gross Sales” Defined.

4.4.1 The term “**Gross Sales**” shall mean the aggregate of all receipts, revenues and income, however characterized, resulting or derived directly or indirectly from the operation of the Premises by Tenant or any subtenant, licensee or concessionaire. Gross Sales shall include, without limitation, (i) revenues from the sale of any food, beverages, goods, wares or merchandise (including gift certificates) sold or produced at the Premises, whether at wholesale or retail, or for cash, credit, trade-in or otherwise, (ii) the proceeds of business interruption insurance received in lieu of any of the foregoing, (iii) the gross amount of deposits not refunded, and (iv) sales and services, including, without limitation, coat checking services, (a) where the orders therefor originate in, at or from the Premises, or arise out of the use of the Premises, in any case, whether delivery or performance is made from the Premises or from some other place, (b) made or performed or filled in or from the Premises by mail, telephone, telecopy, internet, television or telegraph orders, (c) made or performed by means of mechanical or other vending

devices at the Premises, including “video games” or (d) which Tenant or any subtenant, licensee, concessionaire or other person in the normal and customary course of its business would credit or attribute to its operations in any part of the Premises. Gross Sales shall not include the following (collectively, the “**Gross Sales Exclusions**”): (i) any sales, excise or other trust fund taxes collected or received by Tenant in connection with the Premises and paid to the taxing authorities by Tenant, (ii) gratuities to employees paid by Tenant’s customers, (iii) any exchange of merchandise or inventory between stores or businesses of Tenant where such exchange is made solely for the convenient operation of Tenant’s business and not for the purpose of consummating a sale made in, at or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale which would otherwise be made in or at the Premises, (iv) returns to suppliers, (v) cash or credit refunds to customers on transactions (not to exceed the actual selling price of the item returned) otherwise included in Gross Sales, and (vi) sales of trade fixtures, machinery and equipment after use thereof in the conduct of Tenant’s business and not sold in the ordinary course of Tenant’s business. Each charge or sale for credit (including, without limitation, any credit card sales) shall be treated as a sale for the full price in the month during which such charge or sale shall be made, irrespective of the time when Tenant shall receive payment; *provided, however*, that if any amounts so collected shall subsequently be contested and charged off as uncollectible, the amount of such charge-off shall be deducted from Gross Sales from the month in which such charge-off is made; and provided further, however, that if any amount so deducted shall subsequently be collected in whole or in part, the amount so collected shall be included in Gross Sales for the month in which received.

4.4.2 Tenant shall pay, prior to delinquency, any and all sales, use, payroll and other taxes, custom and import duties, assessments and public charges levied, assessed or imposed upon Tenant, its business in the Premises and/or upon Tenant’s personal property, and within ten (10) days after request by Landlord, Tenant shall submit to Landlord photocopies of the federal, state and local sales, use, payroll and other similar tax returns filed by Tenant with the appropriate governmental authority.

4.5 Tenant’s Records. Tenant shall prepare, keep and maintain at the Premises or at Tenant’s principal office within New York City, for a period of not less than seven (7) years following the end of each Lease Year (including following the Expiration Date, as to which Tenant’s obligations hereunder shall survive the Expiration Date (or any earlier termination of this Lease pursuant to any provision hereof or by law)), originals of complete and accurate books of account and records (collectively, the “**Gross Sales Records**”), in form and substance satisfactory to Landlord, of all sales and other transactions from which Gross Sales at, upon or from the Premises can be determined (including the sales of any subtenant, licensee or concessionaire). The Gross Sales Records shall (i) accurately record, in accordance with generally accepted accounting practices, all (x) sales at the time each sale is made, whether for cash or credit, in a cash register or registers containing locked-in cumulative tapes with cumulation capacity satisfactory to Landlord, reflecting the sales at the Premises separately from sales made at any other store operated by Tenant, and (y) Gross Sales Exclusions; (ii) include daily reports of Gross Sales for each day (or portion thereof) on which Tenant is open for business at the Premises and (iii) contain all information necessary to verify all such reported daily Gross Sales. The Gross Sales Records, whether manually or electronically maintained and operated, shall have controls in place that are satisfactory to Landlord, in its reasonable judgment, to prevent the alteration or manipulation of the recorded Gross Sales. Supplementing the foregoing, the Gross Sales Records for any particular period occurring during the Term (each, an “**Audit Period**”) shall include all information recorded by Tenant that Landlord, in its sole discretion, deems pertinent to the determination of Gross Sales for such Audit Period, including, without limitation, all of the following: sequentially numbered cash register tapes and readout totals of cash registers or other point of sale devices, sales returns, sales allowance details, cash receipts, accounts receivable, bank deposits, sales journals or daily sales reports, state and local sales tax returns (including all documentation utilized to prepare such returns), cost of goods purchased and cost of goods sold and a complete general ledger. Tenant’s obligations under this Section 4.5 shall survive the Expiration Date (or any earlier termination pursuant to any provision hereof or by law).

4.6 Landlord’s Right to Audit.

4.6.1 Landlord (and its representatives) shall have the right, from time to time, to examine and/or cause a complete audit (and to make copies) of any or all statements of Gross Sales and Tenant’s Gross Sales Records and Tenant’s procedures for keeping the same. In

connection with any such examination and/or audit, Landlord (or its representatives) shall have the right, from time to time, to request, in a written notice given to Tenant (each, a “**Records Request**”), that Tenant make available to Landlord (or its representatives) the Gross Sales Records relating to any Audit Period. Tenant, within thirty (30) days after Tenant’s receipt of any Records Request (each such 30 day period, a “**Submission Period**”), shall make available to Landlord (or its representatives) the Gross Sales Records requested by Landlord in such Records Request, which Gross Sales Records shall be sufficient to permit an accurate determination of Gross Sales for the applicable Audit Period. If, with respect to any Records Request, either (x) Tenant fails to make available the Gross Sales Records requested by such Records Request within the applicable Submission Period or (y) the Gross Sales Records made available by Tenant in response to such Records Request are insufficient to permit an accurate determination of Gross Sales for the applicable Audit Period, then each such failure or insufficiency (each, a “**Gross Sales Records Default**”) shall constitute a default hereunder. In addition to, and not in limitation of, Landlord’s other rights and remedies in respect of a default under this Lease, at law or at equity, Tenant, with respect to the initial and any subsequent Gross Sales Records Default, shall pay, as additional rent to Landlord within five (5) days following rendition of a bill therefor, an amount equal to fifty percent (50%) of the Minimum Rent due with respect to the applicable Audit Period (*i.e.*, the Audit Period with respect to which the Gross Sales Records Default in question occurs). This additional rent shall be in addition to any Rent due to Landlord under this Lease, and shall be deemed to be liquidated damages (and not a penalty) for the failure of Tenant to maintain and/or make available the Gross Sales Records necessary to permit an accurate determination of Gross Sales for the applicable Audit Period; it being agreed that Landlord’s actual damages resulting from a failure by Tenant to maintain and/or make available such Gross Sales Records would be impossible to ascertain and the foregoing amount is a reasonable estimate thereof. For purposes of this Section 4.6.1, the phrase “make available” or other words of similar import shall be deemed to require that Tenant make the Gross Sales Records requested by any Records Request available to Landlord (or its representatives) either at the Premises or at Tenant’s principal office within New York City.

4.6.2 Tenant shall promptly pay any additional Percentage Rent due Landlord as determined pursuant to any examination and/or audit of Tenant’s statements of Gross Sales, Tenant’s Gross Sales Records and/or Tenant’s procedures for keeping the same. (together with interest thereon at the Default Interest Rate from the date when payment should have been made), and, if (a) Tenant shall be in default under one or more provisions of this Article 4 pertaining to Percentage Rent or the availability of Gross Sales Records at any time while such audit shall be performed, (b) any such audit discloses that the actual amount of Gross Sales differs from the amount reported by more than three percent (3%), and/or (c) the person conducting such examination and/or audit reports that, in its opinion, Tenant’s Gross Sales Records and procedures are insufficient to permit an accurate determination of Gross Sales for any period, Tenant shall also pay (in addition to any amounts Tenant is required to pay pursuant to the provisions of Section 4.6.1 above) the costs of such examination and/or audit as additional rent to Landlord within five (5) days following rendition of a bill therefor.

4.7 **Late Charges.** If Tenant fails to timely pay any installment of Rent, then, in addition to all other rights and remedies available to Landlord under this Lease or at law or at equity, Tenant hereby agrees to pay to Landlord as additional rent: (i) the greater of \$250.00 or eight (8) cents for each dollar that is not paid within five (5) days of the due date thereof; and (ii) an amount equal to the interest on the unpaid amount of such installment at a rate (the “**Default Interest Rate**”) equal to (a) the prime or base rate announced by Citibank, N.A. or any successor thereto from time to time plus (b) four percent (4%) per annum from the due date up to and including the date upon which payment is received; provided, however, that if Tenant fails to timely pay any installment of Rent within five (5) days of the due date thereof on two (2) occasions in any consecutive twelve (12) month period, then the late charge set forth in clause (i) above shall thereafter apply to any installment of Rent not paid on the due date thereof and the amount of the such late charge shall be increased for each subsequent occurrence to the greater of \$500.00 or fifteen (15) cents for each dollar of Rent not paid on the due date thereof.

ARTICLE 5

USE

5.1 **Permitted Use; Non-Permitted Uses.** Tenant shall use and occupy the Premises solely for the Permitted Use and for no other purpose whatsoever.

(a) Tenant shall not, at any time, use or occupy all or any part of the Premises, or any other portion of the Building, or suffer or permit anyone to use or occupy the Premises, or do anything in the Premises, or suffer or permit anyone acting through or under Tenant to use or occupy any other portion of the Building, or suffer or permit anything to be done in, brought into or kept in the Premises or, suffer or permit anyone acting through or under Tenant to do anything in or bring or keep anything in, any other portion of the Building, which in any manner, in the sole discretion of Landlord (i) causes or is liable to cause injury to the Premises, or any other portion of the Building or any equipment, facilities or systems therein; (ii) constitutes a violation of any Legal Requirements, Insurance Requirement, or any of the Rules and Regulations ; (iii) annoys or inconveniences or tends to annoy or inconvenience other tenants or occupants of the Building; (iv) constitutes a nuisance, public or private; (v) violates the provisions of the GCT Lease, that certain Declaration made by NY&HRR dated April 8, 1994 recorded April 14, 1994 in Reel 2080, page 1724 (the “**Declaration**”), or any documents or instruments constituting permitted exceptions under the GCT Lease (the “**Permitted Exceptions**”); or (vi) discharges objectionable fumes, vapors or odors into the Building’s flues or vents or otherwise in such manner as may offend other tenants or occupants of the Building.

(b) Tenant shall not use, or suffer or permit anyone to use, the Premises or any part thereof, for (i) cooking or other food preparation, or (ii) the sale of confectionery and/or any prepared food or beverages, or (iii) any obscene, pornographic or disreputable activities or items.

(c) Landlord and Tenant agree and acknowledge that (i) the Permitted Use specified in this Lease is a material inducement to Landlord in entering into this Lease with Tenant, and Landlord would not enter into this Lease without such inducement, (ii) the Premises are part of an integrated center of retail establishments of the finest quality with due regard to the importance of, among other things, the tenant mix and balance in the Building, (iii) Tenant’s compliance with the provisions of this Article 5 is essential to preserve the tenant mix in the Building, and (iv) if Tenant shall fail to cause the Premises to be open continuously for business for the Permitted Use, fully fixtured, staffed and stocked, at least during Operating Hours and during such additional hours as shall be determined by Landlord, then Landlord and the other tenants in the Building shall be harmed by way of loss of the anticipated customer traffic and any Percentage Rent and by way of loss of value in the Building.

5.2 Storage Areas/Deliveries. Any property which is stored by Tenant within or outside of the Premises is stored at Tenant’s sole risk and Landlord shall not be liable to Tenant in any manner whatsoever for any loss, whether or not the result of Landlord’s negligence or the negligence of any of its employees, servants, agents or workers. Deliveries may be made to the Premises only through the loading facilities designated by Landlord from time to time for such purposes (which loading facilities are currently located on Depew Place), and may be brought through the Building only through the service corridors designated by Landlord for such purposes. Tenant’s use of such designated loading facilities and corridors will be non-exclusive as such loading facilities and corridors will be used by others, including other tenants in the Building. Use of the loading facilities and corridors by Tenant and others shall be scheduled as determined by Landlord. Without limiting the generality of Section 2.3 hereof or the foregoing provisions of this Section 5.2, Landlord reserves the right, in its sole discretion, to change and/or relocate the loading facilities and/or any corridor(s). No deliveries through any area of the Building to which the general public has access may take place between the hours of 7:00 A.M. to 10:00 A.M. and 4:00 P.M. to 8:00 P.M., Mondays through Fridays, and no deliveries may be made except as set forth herein.

5.3 Trade Name. Unless otherwise approved by Landlord in writing, which approval may be withheld by Landlord in its sole discretion, Tenant covenants to conduct business in the Premises only in Tenant’s Trade Name. The foregoing covenant is a material inducement to Landlord to enter into this Lease, and a breach of such covenant shall be deemed a material default hereunder.

5.4 Operating Hours. Tenant shall cause its business to be conducted and operated in good faith and in such manner as shall assure the transaction of a maximum volume of business and sales in and at the Premises. Unless other hours are approved by Landlord in writing, Tenant shall cause the Premises to be open continuously for business, fully fixtured, staffed and stocked, at least during Operating Hours and during such additional hours as shall be determined by Landlord. Tenant acknowledges that the Building is presently closed to the public

every day from 2:00 A.M. to 5:30 A.M., and that Landlord reserves the right in its sole discretion to change the hours during which the Building is open to the public. Tenant shall substantially complete Tenant's Initial Improvements and open for the conduct of business with the general public on or prior to the Required Opening Date.

5.5 Tenant's Manner of Operation; No Unauthorized Use of Public Areas. Tenant shall furnish and install all trade fixtures which may be necessary or desirable for carrying on Tenant's business, shall maintain adequately trained personnel for efficient service to customers, and shall light the display window and signs for the Premises, if any, during Operating Hours and shall operate the Premises, and Tenant's business, in a first-class manner. Tenant shall store in the Premises only such materials as are to be used in Tenant's business in the Premises within a reasonable time after receipt, shall store all trash and refuse in adequate containers within the Premises or at such locations as Landlord shall determine as provided in Section 7.6, shall attend to the daily disposal thereof in the manner designated by Landlord in Section 7.6, shall provide for its own janitorial service as set forth in Section 7.7 and shall receive and deliver goods and merchandise only in the manner and at such times and in such areas as are set forth in Section 5.2. Tenant shall not use the public areas of the Building and/or the sidewalks adjacent thereto for any purpose other than ingress to or egress from the Premises, nor, without limiting the generality of the foregoing, shall Tenant place or conduct any advertising, marketing, promotion, distribution of samples, or storage of goods, materials or trash in, on, or about such areas.

5.6 Licensing. If any governmental license or permit (other than a certificate of occupancy or equivalent document issued by Metro-North permitting retail use of the Premises), including any licenses required for Tenant's employees, shall be required for the proper and lawful conduct of Tenant's business in the Premises or any part thereof, Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to Landlord for inspection. Tenant shall at all times comply with the terms and conditions of each such license or permit. To the extent required by law, Tenant shall cause its employees (including independent contractors hired by Tenant) to maintain proper licenses for all services performed by such employees at the Premises. Notwithstanding any other provision of this Lease, no exemptions from local laws, resolutions, ordinances, rules and regulations that are applicable to Landlord under law shall be applicable to or inure to the benefit of Tenant and/or Tenant's use of the Premises except for those exemptions, if any, that are either (x) consented to in writing by Landlord, in its sole and absolute discretion, and, with such consent, are legally applicable to Tenant and/or Tenant's use of the Premises, or (y) not consented to by Landlord, but are nonetheless legally applicable to Tenant and/or Tenant's use of the Premises.

5.7 Fee for Failure to Operate. In the event Tenant shall vacate, abandon or desert the Premises, or cease operating or conducting Tenant's business in the Premises (except where the Premises are made untenable by reason of fire, casualty, permitted repairs or alterations (not to exceed thirty (30) days in any Lease Year for any such permitted repairs or alterations) or causes beyond Tenant's control provided for herein), or fail or refuse to remain open for business during Operating Hours on such days or nights or any part thereof as provided in Section 5.4 hereof or fail to substantially complete Tenant's Initial Improvements and open for the conduct of business with the general public on or prior to the Required Opening Date, then and in any such event (hereinafter collectively referred to as "**failure to do business**"), in addition to such failure to do business constituting a default hereunder, Tenant shall pay to Landlord, as additional rent, an amount equal to two (2) days' rent, prorated and based on the Minimum Rent then payable, for each day (or portion thereof) during the period of Tenant's failure to do business; and such additional rent shall be deemed to be damages to Landlord, and not a penalty, in lieu of any Percentage Rent that might have been payable to Landlord had such failure to do business not occurred, it being agreed that Landlord's actual damages would be impossible to ascertain and the foregoing amount is a reasonable estimate thereof. Landlord's claim that Tenant has vacated, abandoned or deserted the Premises shall not be defeated solely because Tenant may have left all or any part of its trade fixtures or other personal property in the Premises.

ARTICLE 6

TENANT'S WORK

6.1 Landlord's Consent Required. Tenant shall make no alterations, installations, additions, changes or improvements in or to the Premises (collectively, "**Tenant's Work**") of

any nature without Landlord's prior written consent. Landlord shall not unreasonably withhold its consent to the performance by Tenant of any Tenant's Work unless such Tenant's Work shall constitute Prohibited Tenant Work. For the purposes of this Lease, the term "**Prohibited Tenant Work**" shall mean any Tenant's Work which, in Landlord's judgment, would (a) affect (i) the structural integrity of the Building or is otherwise structural in nature, including floor penetrations and roof penetrations or roof mounting, (ii) utility services or plumbing and electrical lines, (iii) any part of the Building outside of the Premises, (iv) the Building equipment and other service systems of the Building, (v) the areas of the Premises designated by Landlord or any governmental or quasi-governmental authority as "Historic Areas", or (vi) signage, (b) diminish the value or utility of the Building, (c) affect railroad operations, (d) be inconsistent, in any manner, with Landlord's Construction Requirements, (e) have a cost greater than Ten Thousand and 00/100 (\$10,000.00) Dollars, or (f) require the consent of any Superior Mortgagee or Superior Lessor.

6.2 Plans for Tenant's Work. If Tenant desires to perform any Tenant's Work, (including Tenant's Initial Improvements), then Tenant shall submit to Landlord five (5) sets of complete plans and specifications for any such proposed Tenant's Work which shall be prepared by an architect licensed to do business in the State of New York and approved in writing by Landlord (such plans and specifications, including Tenant's Submission I Plans and Tenant's Submission II Plans, being herein called "**Tenant's Plans**"). Tenant acknowledges that any review or approval of Tenant's Plans by Landlord or consent by Landlord allowing Tenant to perform Tenant's Work (including Tenant's Initial Improvements) in the Premises is for Landlord's purposes only and without any representation or warranty whatsoever to Tenant with respect to the adequacy, correctness or efficiency thereof or the compliance of the same with any Legal Requirements or Insurance Requirements or any other matter.

6.3 Conduct of Tenant's Work. All of Tenant's Work, including, without limitation, Tenant's Initial Improvements and the installation of all trade fixtures, and all repairs to the Premises, shall be performed diligently to completion, using good construction practices and in accordance with (and Tenant shall and shall cause all of its contractors, architects, engineers, subcontractors and materialmen and others performing work or furnishing services or materials in connection with Tenant's Work to comply with) the provisions of this Lease and Landlord's Construction Requirements. In performing any of Tenant's Work, Tenant is required to retain a registered architect and a licensed professional engineer. For purposes of this Lease, the term "**Landlord's Construction Requirements**" shall mean, collectively, (a) Landlord's Architectural Design Criteria (the "**Architectural Design Criteria**"), (b) Landlord's Mechanical and Electrical Tenant Design Criteria (the "**Mechanical and Electrical Tenant Design Criteria**"), and (c) Rules and Regulations for Tenant Construction, all of the foregoing as set forth in documentation maintained in Landlord's retail management office in the Building, all of which Tenant has been given the opportunity to review; it being understood that Landlord reserves the right, from time to time, upon notice to Tenant, to make such modifications and additions to Landlord's Construction Requirements as Landlord shall, from time to time, reasonably require. The parties acknowledge that: (i) Landlord's Construction Requirements are based, in part, on the requirements of the New York State Uniform Fire Prevention and Building Code; and (ii) Landlord also cooperates with the Fire Department of the City of New York (the "**FDNY**") with respect to fire safety matters within the Building, including retail establishments within the Building. Accordingly, Landlord may, in its discretion, require that some or all of Tenant's Work be reviewed and approved by the FDNY. In the event of any conflict or inconsistency between the Lease and Landlord's Construction Requirements, the Lease shall govern. Tenant shall be prohibited from acting as its own general contractor in connection with Tenant's Work. In addition, Tenant shall not commence any of Tenant's Work on the Premises until (A) Tenant shall have obtained Landlord's written approval of Tenant's Plans with respect thereto, (B) Tenant shall have obtained, at Tenant's sole cost, all permits and approvals required by Legal Requirements for performance of Tenant's Work, (C) Tenant shall have complied with Article 16 hereof and deposited all appropriate insurance certificates with Landlord, and (D) Tenant shall have obtained Landlord's written approval of Tenant's contractor or contractors who or which will be performing such Tenant's Work. Notwithstanding anything to the contrary contained in this Lease, (x) any Tenant's Work that, in Landlord's determination, (1) may involve or affect the Building systems, equipment or utilities, (2) shall otherwise constitute Prohibited Tenant Work, (3) may affect railroad operations, and/or (4) shall include floor or roof openings and/or penetrations or equipment mounting on the Building, shall, at Landlord's request, be reviewed and/or performed, at Tenant's sole cost and expense, by MTA's or Metro-

North's employees, contractors, architect, engineer or other designees; and (y) if any such work necessitates (in Landlord's sole discretion) the closing of railroad tracks and/or the use of flagmen, then Tenant shall pay all costs pertaining thereto. All amounts payable by Tenant under this Section 6.3 shall be payable within fifteen (15) days of request therefor by Landlord. All of Tenant's Work shall be done in accordance with Tenant's Plans approved by Landlord and in accordance with Legal Requirements and Insurance Requirements and the then requirements of Landlord and shall be performed in a manner so as not to interfere with railroad or other tenant operations or pedestrian traffic in the Building. Tenant shall obtain railroad protective insurance if required by Landlord for any and all Tenant's Work with such limits, and issued by a company, as Landlord shall reasonably require under the circumstances. All Tenant's Work, including, without limitation, all trade fixtures which may be installed or placed within the Premises from time to time, shall be new and in first-class condition.

6.4 Security for Tenant's Work. (a) Before proceeding with any Tenant's Work, including Tenant's Initial Improvements, which will cost in the aggregate more than One Hundred Twenty Thousand and 00/100 (\$120,000.00) Dollars, as estimated by a reputable contractor designated by Landlord, Landlord shall have the option (in its sole discretion and provided that such Tenant's Work shall not constitute a Required Bond Improvement, in which event Tenant shall be required to comply with the provisions of Section 6.4(b) below) to require that Tenant furnish to Landlord one of the following (as selected by Landlord, in its sole discretion): (i) a cash deposit or (ii) an irrevocable, unconditional, letter of credit, issued by and drawn on a bank or trust company which is a member of the New York Clearing House Association in a form reasonably satisfactory to Landlord, in each instance to be in an amount equal to one hundred twenty-five (125%) percent of the cost of such Tenant's Work, estimated as set forth above

(b) Before proceeding with any Tenant's Work, including Tenant's Initial Improvements, which will cost in the aggregate more than Two Hundred Fifty Thousand and 00/100 (\$250,000.00) Dollars (each, a "**Required Bond Improvement**"), as estimated by a reputable contractor designated by Landlord, Tenant shall post, or cause to be posted, a bond (issued by a corporate surety licensed to do business in the State of New York and reasonably satisfactory to Landlord) or other form of undertaking (an "**Undertaking**") acceptable to Landlord, guaranteeing prompt payment of moneys due to all contractors, all subcontractors and all other persons furnishing labor or materials in the prosecution of such Required Bond Improvement. Each such Undertaking shall comply with the requirements set forth in Section 5 of Article 2 of the New York Lien Law. Prior to the commencement of any Required Bond Improvement, Tenant shall submit for review by the Landlord a copy of the relevant Undertaking evidencing Tenant's compliance with the requirements of this paragraph (b) and such Required Bond Improvement shall not be commenced without the Landlord's prior written approval of such Undertaking.

(c) Upon (i) the completion of such Tenant's Work in accordance with the terms of this Article and (ii) the submission to Landlord of proof evidencing the payment in full for such Tenant's Work, the security deposited with Landlord (or the balance of the proceeds thereof, if Tenant has furnished cash or a letter or credit and if Landlord has drawn on the same) shall be returned to Tenant.

(d) In the event that Tenant shall fail to properly perform, complete and fully pay for such Tenant's Work, as determined by Landlord, Landlord shall be entitled to draw on the security deposited under this Article to the extent that Landlord deems necessary in connection with such Tenant's Work, the restoration and/or protection of the Premises and/or the Building, the payment or satisfaction of any costs, damages or expenses in connection with the foregoing and/or Tenant's obligations under this Article.

6.5 Landlord's Right to Inspect During Tenant's Work. Landlord shall have the right, but not the obligation, at any time during any construction or alteration performed by Tenant or Tenant's representatives within or about the Premises or within or about the Building, to inspect Tenant's Work for compliance with Landlord's requirements.

6.6 Tenant's Initial Improvements.

(a) General. Subject to the provisions of this Article 6, Tenant shall, at Tenant's cost and expense, perform all necessary Tenant's Work to initially fit the Premises for

the Permitted Use, including, without limitation, any work required pursuant to the Lease and Landlord's Construction Requirements (such initial Tenant's Work being herein sometimes separately referred to as "**Tenant's Initial Improvements**").

(b) Procedures for Tenant's Initial Improvements. Tenant shall fully and timely comply with the "Tenant Submission Requirements and Procedures" set forth in the Architectural Design Criteria. On or prior to the date that is thirty (30) days after the date hereof, Tenant shall furnish to Landlord, for Landlord's review and approval, "Submission I" for Tenant's Initial Improvements as more particularly described in the Architectural Design Criteria (such submission being herein called "**Tenant's Submission I Plans**"). Tenant's Submission I Plans shall be consistent with, and be accompanied by the documentation required pursuant to, Landlord's Construction Requirements. On or prior to the date which is fourteen (14) days after Tenant has received Landlord's approval of Tenant's Submission I Plans, Tenant shall furnish to Landlord, for Landlord's review and approval, "Submission II" for Tenant's Initial Improvements as more particularly described in the Architectural Design Criteria (such submission being herein called "**Tenant's Submission II Plans**"). Tenant's Submission II Plans shall be consistent with, and be accompanied by the documentation required pursuant to, Landlord's Construction Requirements. For the purposes of this Lease, the term "**Tenant's Approved Final Plans**" shall mean Tenant's Submission II Plans as approved by Landlord. If Landlord objects to Tenant's Submission I Plans or Tenant's Submission II Plans in any respect, Landlord shall notify Tenant in writing of Landlord's objections and Tenant shall submit to Landlord for approval within the time periods set forth in the Architectural Design Criteria, modifications of Tenant's Submission I Plans or Tenant's Submission II Plans, as the case may be, which cure Landlord's objections.

(c) Commencement and Completion of Tenant's Initial Improvements; Opening Date. Tenant shall commence Tenant's Initial Improvements no later than the later to occur of (i) the fifteenth (15th) day after receipt of Landlord's approval of Tenant's Submission II Plans and (ii) the Commencement Date; and Tenant shall prosecute Tenant's Initial Improvements to completion with diligence and continuity and in accordance with good construction practice and Tenant shall open for business as soon as reasonably practicable following the Commencement Date, but in no event later than the Required Opening Date.

(d) Fee for Late Plan Submission and/or Construction. In the event Tenant fails to submit Tenant's Submission I Plans or Tenant's Submission II Plans or revisions thereof within the time periods set forth in Section 6.6(b) above, or to commence construction of Tenant's Initial Improvements on or before the date set forth in Section 6.6(c) above, the last day of each time period or date, as the case may be, being the "due date" in each circumstance, and time being of the essence as to each such "due date," the same shall be a default hereunder. In addition to Landlord's other rights and remedies in respect of a default, Tenant shall pay to Landlord, as additional rent, an amount equal to one (1) day's rent, prorated and based upon the Minimum Rent as set forth in Article 4 hereof, for each day beyond the applicable due date as set forth herein until such Tenant's Submission I Plans or Tenant's Submission II Plans are submitted to Landlord, or Tenant has commenced Tenant's Initial Improvements, as the case may be. This rent shall be in addition to any Rent due to Landlord under this Lease, and shall be deemed to be liquidated damages and not a penalty, in lieu of any Percentage Rent that might have been payable to Landlord had Tenant's delay not occurred, it being agreed that Landlord's actual damages would be impossible to ascertain and the foregoing amount is a reasonable estimate thereof.

(e) Landlord's Fees for Tenant's Initial Improvements. In consideration of Landlord's review of Tenant's Submission I Plans and Tenant's Submission II Plans, Tenant shall pay to Landlord, upon the execution of this Lease, the sum of \$10,000.00 (the "**Tenant's Initial Plans Review Fee**").

6.7 Landlord's Fees for Tenant's Work. Tenant shall reimburse Landlord for all costs that Landlord incurs as a result of Tenant's Work (including Tenant's Initial Improvements), including, without limitation, the costs incurred by Landlord in connection with the (a) review by a third (3rd) party contractor of Tenant's Plans to ensure compliance with Legal Requirements, (b) issuance of any building permits, (c) inspection and monitoring of Tenant's Work, (d) labor and other operational costs, such as the operation of a freight elevator for transportation of materials, and (e) ensuring the safety and operation of the railroad and passengers in or about the Building. Expenditures made by Landlord for repairs or the

administration of any construction in accordance with the GCT Lease are deemed costs incurred by Landlord for purposes of this Section 6.7. Tenant shall pay Landlord all costs hereunder, as additional rent, within ten (10) days following the submission of bills by Landlord.

6.8 Liens; Claims. Tenant shall pay (or cause to be paid) timely all contractors, architects, engineers, subcontractors and materialmen and others performing work in, or furnishing services or materials to, the Premises in connection with any Tenant's Work (including the Tenant's Initial Improvements). Landlord shall not be liable to pay, or to incur any cost whatsoever in connection with, Tenant's contractors, consultants or suppliers. Notice is hereby given that none of Landlord, Landlord's agents, nor any Superior Lessors and their subsidiaries and Affiliates shall be liable for any labor or materials furnished or to be furnished to Tenant, and that no mechanic's or other lien for such labor or materials shall attach to or affect any estate or interest of Landlord or any Superior Lessors in and to the Premises or the real property of which the Premises forms a part. If any such lien or liens shall be filed, or any other liens affecting the Premises or any property therein or thereat shall be filed or be imposed as a result of any act or omission of Tenant or any Tenant Party, then Tenant shall within fifteen (15) days after the receipt of notice thereof pay or bond such lien or otherwise cause the same to be discharged. Tenant shall indemnify Landlord, Landlord's agents, and Superior Lessors against any and all claims arising as a result of Tenant's Work by any materials supplier, contractor or sub-contractor.

6.9 Fixtures; Tenant's Property. Tenant shall not install or make part of the Premises any materials, fixtures, built-in equipment or articles which are subject to liens, conditional sales contracts, chattel mortgages or security interests (as such term is defined in the Uniform Commercial Code as in effect in New York at the time of installation). All Tenant's Work (including, without limitation, any fixtures, storefronts, built-in equipment, plumbing and other utility installations, air and exhaust ducts, and paneling, partitions, railings and like installations), installed in the Premises at any time by or on behalf of Tenant, shall become the property of Landlord and shall remain upon and be surrendered with the Premises, unless Landlord elects to have any such Tenant's Work (or component thereof) removed by Tenant, in which event, the same shall be removed from the Premises by Tenant, at Tenant's expense, prior to the Expiration Date. Upon removal from the Premises of any Tenant's Work (or component thereof) as may be required by Landlord, Tenant shall immediately and at its expense, repair and restore the Premises to the condition existing prior to installation and repair any damage to the Premises or the Building due to such removal. All furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises, that, in each case, (i) are not attached to or built into the Premises, (ii) are placed in the Premises by or on behalf of Tenant without expense to Landlord and (iii) can be removed without damage to the Building (herein collectively called the "**Tenant's Property**") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided, that if any of Tenant's Property is removed, Tenant shall repair or pay the cost of repairing any damage to the Premises or to the Building resulting from the installation and/or removal thereof. All Tenant's Property, and all Tenant's Work that is required to be removed from the Premises pursuant to this Section 6.9, remaining in the Premises after the end of the Term shall be deemed abandoned and may, at the election of Landlord, either be retained as Landlord's property or may be removed from the Premises by Landlord, and Tenant shall, upon demand, reimburse Landlord for the cost of such removal and the cost of repairing and restoring the Premises to the condition existing prior to installation and repairing any damage to the Premises or the Building due to such removal. The provisions of this Section 6.9 shall survive the expiration or termination of this Lease.

6.10 No Labor Difficulties. Tenant agrees that it will not at any time prior to or during the Term hereof, whether in connection with Tenant's Work, repairs, maintenance or otherwise, either directly or indirectly, use any contractors and/or labor and/or materials if the use of such contractors and/or labor and/or materials would or will create any labor difficulty with other contractors and/or labor and/or materials engaged by Tenant or Landlord or others in the construction, maintenance, and/or operation of the Building or the railroad or any part thereof. Tenant shall immediately stop any Tenant's Work, repairs, maintenance or other activity if Landlord notifies Tenant that continuing such Tenant's Work, repairs, maintenance or other activity would create any labor difficulty with other contractors and/or labor and/or materials engaged by Tenant or Landlord or others in the construction, maintenance, and/or operation of the Building or the railroad or any part thereof.

6.11 Procedure Following Completion of Tenant's Work. Upon completion of any Tenant's Work, including, without limitation, Tenant's Initial Improvements, Tenant shall provide Landlord with and/or satisfy all of the following: (i) proof of satisfactory completion in a good and workmanlike manner of the Tenant's Work (including those items on any punchlist issued by Landlord upon inspection of the Premises), which proof shall include, without limitation, submission by Tenant of a certificate of Tenant's architect's certifying that Tenant's Work has been satisfactorily completed in accordance with Tenant's Approved Final Plans and/or Tenant's Plans, as the case may be; (ii) all AIA forms and supporting waivers and lien releases as required by Landlord from all of Tenant's contractors, subcontractors and suppliers; (iii) a detailed breakdown of Tenant's total construction costs, together with receipt invoices showing payment thereof; (iv) one (1) copy of all original designs, contracts, detail and shop drawings, together with two (2) copies of the final as-built Tenant's Plans for Tenant's Work (including, without limitation, Tenant's Initial Improvements) from Tenant's architect; (v) copies of all certificates of occupancy, licenses, certificates, permits and other governmental authorizations necessary in connection with Tenant's Work or the operation of Tenant's business; and (vi) any other documentation which Landlord may reasonably require in connection with Tenant's Work. The final as-built Tenant's Plans for Tenant's Work (including, without limitation, Tenant's Initial Improvements) required above shall be delivered in hard copy, pdf format and AutoCAD format within sixty (60) days after completion of such Tenant's Work, whereupon such Tenant's Plans shall be the property of Landlord. In addition to any other remedies hereunder, if Tenant fails to provide final as-built Tenant's Plans for Tenant's Work within such sixty (60) day period, Landlord shall have the right to have such final as-built plans prepared and Tenant shall reimburse Landlord for the costs incurred thereby, as additional rent, within ten (10) days following the submission of bills by Landlord to Tenant.

ARTICLE 7

REPAIRS AND MAINTENANCE

7.1 Tenant's Obligation to Repair and Maintain Premises.

7.1.1 Tenant shall take good care of the Premises (including the interior and exterior of Tenant's storefront) and the fixtures, equipment and appurtenances thereto (including those located outside of the Premises to the extent same exclusively serve the Premises) at its sole cost and expense. Tenant, at its sole cost and expense and to the reasonable satisfaction of Landlord, shall promptly make all interior, non-structural repairs thereto, whether ordinary or extraordinary, as and when needed to preserve the Premises and the Building equipment, systems and fixtures therein and Tenant's property in good working order and condition. In addition, all damage or injury to the Premises and/or the Building and any fixtures, appurtenances or equipment therein, in each case whether structural or non-structural shall be repaired, restored or replaced at Tenant's sole cost and expense, to the extent that such damage results from or is caused by (i) Tenant moving property in or out of the Building or by installation or removal of furniture, fixtures, other property or alterations, whether or not due to carelessness, omission, neglect, improper conduct or other cause of Tenant, its servants, employees, agents, visitors or licensees, or (ii) the carelessness, omission, neglect, improper conduct or other cause of Tenant, its servants, employees, agents, visitors or licensees, or (iii) defects in, or manner of construction of, Tenant's Work or any repairs or maintenance work done by Tenant and/or its contractors, subcontractors, agents or employees.

7.1.2 To the extent that any of the repair, restoration or replacement obligations described in Section 7.1.1 involve non-structural damage to the Premises, such repairs, restoration or replacement shall be promptly performed by Tenant to the reasonable satisfaction of Landlord. To the extent that any of the repair, restoration or replacement obligations described in Section 7.1.1 involve structural damage to the Building (including, without limitation, the Premises) or non-structural damage to the Building (other than to the Premises), such repairs, restoration or replacement, shall be performed, at Tenant's sole cost and expense, at Landlord's option, either by Landlord or Tenant in accordance with the provisions of Section 7.2 below.

7.1.3 Tenant's maintenance, repair, restoration and replacement obligations set forth in Section 7.1.1 with respect to the Premises and/or the Building shall include such maintenance, repair, restoration and replacement as required by any Legal Requirements now or hereafter in effect. Notwithstanding any other provision of this Lease, no exemptions from local

laws, resolutions, ordinances, rules and regulations that are applicable to Landlord under law shall be applicable to or inure to the benefit of Tenant and/or Tenant's use of the Premises except for those exemptions, if any, that are either (x) are consented to in writing by Landlord, in its sole and absolute discretion, and, with such consent, are legally applicable to Tenant and/or Tenant's use of the Premises, or (y) are not consented to by Landlord, but are nonetheless legally applicable to Tenant and/or Tenant's use of the Premises.

7.2 Structural Repairs. Except to the extent that any such repairs, restoration and replacement (or the cost thereof) shall be the responsibility of Tenant pursuant to Section 7.1 above, Landlord shall be responsible for and shall make all structural repairs, restoration and replacement of or to structural elements of the Building located in the Premises.

7.3 Repairs Subject to Landlord's Approval. All repairs to and restoration of the Premises or replacement of any item of Tenant's Work installed therein shall be deemed Tenant's Work and shall be subject to the provisions of Article 6 hereof. Landlord may, at its option, cause any repairs or replacements to the Building systems or architectural elements for which Tenant is responsible pursuant to the provisions of this Lease to be made by Landlord or Landlord's designated contractor, at Tenant's sole cost and expense.

7.4 Floor Loads. Tenant shall not place a load upon any floor of the Premises exceeding the maximum floor load per square foot area which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of all safes and other mechanical equipment, which must be placed so as to distribute the weight and absorb and prevent vibration, noise and annoyance. Tenant shall not move any safe, heavy machinery, heavy equipment, bulky matter or fixtures, into or out of the Building without Landlord's prior written consent. If such safe, machinery, equipment, bulky matter or fixtures require special handling, all work in connection therewith shall comply with all Legal Requirements applicable thereto and shall be done during such hours as Landlord may designate. Any damage caused by such movement shall be promptly repaired at Tenant's expense.

7.5 No Liability to Tenant for Repairs. There shall be no allowance to Tenant for a diminution of rental value and no liability on the part of Landlord by reason of inconvenience, annoyance or injury to Tenant's business arising from Landlord or others making any repairs, alterations, additions or improvements in or to any portion of the Building or Premises or in or to fixtures, appurtenances, or equipment thereof and there shall be no liability upon Landlord for failure of Landlord or others to make any repairs, alterations, additions or improvements in or to any portion of the Building or of the Premises, or in or to the fixtures, appurtenances or equipment thereof.

7.6 Pest Control; Trash Disposal.

7.6.1 Tenant shall, at Tenant's sole cost and expense, cause the Premises to be serviced by a qualified and licensed pest control contractor designated or approved by Landlord, as necessary to prevent the presence of vermin, rodents or other pests in the Premises; which service shall be performed at the Premises to the satisfaction of Landlord, at a frequency of not less than once per calendar month and more frequently if deemed necessary by Landlord in its sole discretion.

7.6.2 The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were designed or constructed, and no sweeping, rubbish, rags, sanitary napkins, grease, acids or other similar substances shall be deposited therein.

7.6.3 Tenant shall not place nor allow to be placed or accumulated in public or other areas of the Building outside of the Premises any garbage, rubbish or refuse or receptacles for the same. Tenant shall be responsible, at Tenant's sole cost and expense, for the removal and disposal of all garbage and refuse resulting from the operation of its business in the Premises and, at Landlord's request, Tenant shall pay for a trash removal service designated by Landlord. All garbage and refuse from the Premises shall be stored, handled and transported in such manner as will prevent odors and vermin. Solid waste and wet garbage must be held in kitchen or storage areas and may only be removed from the Premises between the hours of 10 P.M. and 6 A.M. or during such other hours as shall be designated by Landlord. Tenant shall transport all solid waste and wet garbage to a pickup location approved by Landlord and (x) if the scheduled

pickup time occurs during Operating Hours, then Tenant shall deliver all solid waste and wet garbage to the pickup location no more than one hour before the scheduled pickup time, and (y) if the scheduled pickup time occurs after Operating Hours, then Tenant shall deliver all solid waste and wet garbage to the pickup location immediately after Operating Hours. Under no circumstances may garbage be stored at or picked up from any curb side adjacent to the Building. In the event of any interruption of regularly scheduled garbage pickups, Tenant shall take all action required to remove Tenant's garbage and refuse from the Building on a daily basis. Tenant shall be responsible for any spillage or residue of garbage and refuse from the Premises outside the Premises, and shall immediately remove such spillage or residue upon its occurrence.

7.6.4 (a) Notwithstanding the foregoing, Landlord may elect (but shall not be so obligated), at Tenant's expense, to supply trash removal and/or pest control services to the Premises. Any such service shall be conducted in a manner that Landlord shall deem appropriate; *provided, however*, that in providing such service Landlord shall use reasonable efforts to not unreasonably interfere with the conduct of Tenant's business. Tenant shall comply with any additional rules and regulations required by Landlord in connection with Landlord's provision of any such service, including but not limited to, requirements for separating recyclable garbage under applicable law.

(b) If Landlord elects to furnish pest control services to the Premises, Tenant shall pay monthly to Landlord, as additional rent, during the time or times that Landlord shall elect to furnish such pest control services, such sums as Landlord may, from time to time, charge for furnishing such service.

(c) If Landlord elects to furnish trash removal and hauling services to the Premises, Tenant shall pay, as additional rent hereunder, in accordance with the provisions of this paragraph (c), during the time or times that Landlord shall elect to furnish such trash removal and hauling services, Tenant's T/R Share of Landlord's cost (including, without limitation, an administrative charge) of providing trash removal and hauling services to the retail tenants in the Building (including Tenant) to whom Landlord is then furnishing such services ("**Tenant's Trash Removal Charge**"). "**Tenant's T/R Share**" shall mean Tenant's share of Landlord's trash removal and hauling services, as determined by Landlord in its reasonable discretion based upon factors such as the nature of Tenant's use of the Premises and the generation of excessive trash, wet trash, and/or trash requiring special handling, storage, containment, treatment and/or removal. Landlord, at its option, may require Tenant to pay, in advance each month, Landlord's estimate of Tenant's Trash Removal Charge for such month. Within ninety (90) days (or such additional time as is reasonable under the circumstances) after the end of each Lease Year during which Landlord shall provide trash removal services, Landlord shall deliver to Tenant a statement setting forth Tenant's Trash Removal Charge for such calendar year and Tenant shall pay to Landlord, or Landlord shall credit to Tenant's account, within ten (10) days of Tenant's receipt of such statement, as the case may be, the amount required for Tenant to have paid Tenant's Trash Removal Charge for the calendar year in question.

7.7 Cleaning Services. Tenant shall, at Tenant's sole cost and expense, clean the Premises (including all portions of the storefront) and such cleaning shall be performed in preparation for Tenant's opening for business and for each day Tenant is open for business. Any cleaning company and the employees thereof hired by, or under the direction of, Tenant, shall be subject to the reasonable prior approval of Landlord. Upon Landlord's request, Tenant shall require such cleaning company to replace any one or more of the employees actually performing the janitorial work with employees reasonably satisfactory to Landlord, and Landlord shall not be required to disclose its reasons for any such request. All cleaning services so performed by Tenant must comply with Landlord's requirements. At Landlord's election, Landlord may designate one or more contractors to furnish cleaning services within the Building or any portion thereof and, in such event, Tenant shall contract for such cleaning services with a cleaning contractor so designated by Landlord.

7.8 Glass. Tenant shall, at Tenant's sole cost and expense, replace any and all plate and other glass damaged, scratched or broken from any cause whatsoever in and about the Premises within 24 hours of any damage, scratch or breakage. Tenant shall be responsible for cleaning all glass surfaces in the Premises to Landlord's satisfaction, including but not limited to the exterior surfaces to Landlord's satisfaction.

7.9 Storefront. Tenant shall, at Tenant's cost and expense, maintain and repair the storefront of the Premises (interior and exterior) including, but not limited to, regular periodic metal maintenance to the satisfaction of Landlord. Notwithstanding the foregoing sentence, Landlord may elect (but shall not be so obligated), at Tenant's expense, to maintain and repair the storefront of the Premises including, but not limited to, metal maintenance thereof. Any such service shall be conducted in a manner that Landlord shall deem appropriate. If Landlord elects to furnish such storefront maintenance and/or repair service to the Premises, Tenant shall pay monthly to Landlord, as additional rent, during the time or times that Landlord shall furnish such service, such sums as Landlord may, from time to time, charge therefor.

7.10 Exhaust System; Fire Protection System. If there shall be any exhaust system (including any hood, fan, and/or duct thereof) and/or fire protection system located within the Premises, or located outside of the Premises but exclusively servicing the Premises, Tenant shall, at Tenant's sole cost and expense, (a) keep such exhaust system and/or fire protection system clean and in good condition (including, without limitation, replacing all exhaust filters at least once every three (3) months), (b) maintain and repair such exhaust system and/or fire protection system in accordance with all applicable Legal Requirements, Insurance Requirements and any other maintenance requirements (including, without limitation, any requirements of the FDNY) determined by Landlord in its sole discretion, and (c) subject to Landlord's prior approval, promptly make such installations, modifications or alterations which are required or recommended by Legal Requirements and/or Insurance Requirements or which are required by reason of Tenant's business in the Premises, the location of partitions, space design, layout, trade fixtures, and/or other contents of the Premises (whether the work involved shall be structural or non-structural in nature). Notwithstanding the foregoing sentence, Landlord may elect (but shall not be so obligated), at Tenant's expense, to maintain and/or repair all or any portion of the exhaust system and/or fire protection system located within the Premises, or located outside of the Premises but exclusively servicing the Premises, in a manner that Landlord deems appropriate. If Landlord elects to furnish such maintenance and/or repair service, Tenant shall pay to Landlord within ten (10) days after demand, as additional rent, such sums as Landlord may, from time to time, charge therefor.

7.11 Grease Traps. If there shall be one or more grease traps located in the Premises, Tenant shall, at Tenant's sole cost and expense, (a) keep such grease traps in a clean condition, and (b) maintain and repair such grease traps in accordance with all applicable Legal Requirements and Insurance Requirements and any maintenance requirements (including, without limitation, any requirements of the FDNY) determined by Landlord in its sole discretion. Notwithstanding the foregoing sentence, Landlord may elect (but shall not be so obligated), at Tenant's expense, to maintain and/or repair any grease traps located in the Premises, in a manner that Landlord deems appropriate. If Landlord elects to furnish such maintenance and/or repair service, Tenant shall pay to Landlord within ten (10) days after demand, as additional rent, such sums as Landlord may, from time to time, charge therefor.

7.12 Awnings. If the terms of this Lease shall expressly permit Tenant to install an awning or awnings located above the exterior of the storefront of the Premises or any other location in or about the Building, Tenant shall, at Tenant's sole cost and expense, maintain and repair such awning(s) in accordance with all applicable Legal Requirements and Insurance Requirements and any maintenance requirements determined by Landlord in its sole discretion. Notwithstanding the foregoing sentence, Landlord may elect (but shall not be so obligated), at Tenant's expense, to maintain and/or repair any such awnings located above the exterior of the storefront of the Premises in a manner that Landlord deems appropriate. If Landlord elects to furnish such maintenance and/or repair service, Tenant shall pay to Landlord within ten (10) days after demand, as additional rent, such sums as Landlord may, from time to time, charge therefor.

ARTICLE 8

UTILITIES

8.1 Generally. Landlord shall, from and after the Commencement Date, subject to and in accordance with the provisions of this Article 8, furnish to the Premises the following utilities: (i) electricity, (ii) sanitary drainage (if there is an existing connection into the Premises on the Commencement Date), (iii) domestic cold water (if there is an existing connection into the Premises on the Commencement Date), (iv) chilled water and outside fresh air (if there is an

existing connection into the Premises on the Commencement Date), (v) steam (if there is an existing connection into the Premises on the Commencement Date), and (vi) natural gas (if there is an existing connection into the Premises on the Commencement Date). The specifications for Tenant's initial connections of utilities and the specifications to which Landlord's systems are designed to furnish such utilities are set forth in Landlord's Construction Requirements.

8.2 Electricity.

8.2.1 Electric Service. Landlord shall furnish electricity to the disconnect point in Landlord's electrical room and shall permit its existing wires, conduits and electrical equipment to connect to the Premises to the extent that the same are currently available. Tenant shall pay monthly to Landlord, as additional rent hereunder, the amount of Tenant's electric usage for the Premises for such month as shown on a submeter with respect to the same, multiplied by the rate that Landlord may, from time to time, charge for furnishing electric current. The rate schedule used by Landlord for calculating charges for electric current shall cover Landlord's costs of furnishing such services, provided that, in any event, such rate schedule (exclusive of Landlord's cost of administering such service) shall be comparable to the rates that would have been charged to Tenant if Tenant had obtained electricity directly from the applicable utility company delivering the service to the Building. Tenant shall not use or install any fixtures, equipment or machines the use of which in conjunction with other fixtures, equipment and machines in the Premises would result in an overload of the electrical circuits servicing the Premises. Landlord shall not be liable or responsible to Tenant for any loss, damage or expense which Tenant may sustain or incur if either the quality or character of electric service is changed or interrupted or is no longer available or suitable for Tenant's requirements unless due to the gross negligence or willful misconduct of Landlord, its agents, employees or contractors.

8.2.2 Electric Panels. Tenant shall, at Tenant's sole cost and expense, maintain and repair the electric panels servicing the Premises in accordance with any applicable Legal Requirements, the requirements of the utility company servicing the Building, and any maintenance requirements determined by Landlord in its sole discretion. Notwithstanding the foregoing sentence, Landlord may elect (but shall not be so obligated), at Tenant's expense, to perform thermographic testing of the electric panels servicing the Premises from time to time. Any such testing shall be conducted in a manner that Landlord shall deem appropriate. If Landlord elects to perform such testing, Tenant shall pay to Landlord within ten (10) days after demand, as additional rent, such sums as Landlord may, from time to time, charge therefor.

8.3 Domestic Water. If domestic cold water is provided to the Premises as set forth in Section 8.1 above, Landlord shall furnish to the Premises domestic cold water to the existing point of connection designated by Landlord, which point of connection shall be within the Premises. Tenant shall pay monthly to Landlord, as additional rent hereunder, the amount of Tenant's domestic water usage for the Premises for such month as shown on a submeter with respect to the same, multiplied by the rate that Landlord may, from time to time, charge for furnishing domestic water. The rate schedule (exclusive of Landlord's cost of administering such service) used by Landlord for calculating charges for domestic water shall cover Landlord's costs of furnishing such services, provided that, in any event, such rate schedule shall be comparable to the rates that would have been charged to Tenant if Tenant had obtained domestic water directly from the applicable utility company delivering the service to the Building. Subject to the terms and provisions of Article 6 hereof, Tenant, at its sole expense, shall be responsible for distributing water from the aforesaid point of connection and, to the extent Tenant desires hot water, for heating the cold water furnished by Landlord.

8.4 Additional Utilities.

[IF LANDLORD IS FURNISHING HVAC SERVICE, THE FOLLOWING "CHILLED WATER" PROVISION WILL BE DELETED AND REPLACED WITH A PROVISION FOR HVAC SERVICE (WHICH WILL PROVIDE FOR AN ANNUAL HVAC CHARGE -- CURRENTLY \$6.12/square foot FOR CALENDAR YEAR 2012)]

8.4.1 Chilled Water. If chilled water is provided to the Premises as set forth in Section 8.1 above, Landlord shall furnish to Tenant during such periods as Landlord may have facilities for furnishing such service, a supply of chilled water for air conditioning purposes in the Premises. Tenant shall pay monthly to Landlord during the time or times that Landlord shall

furnish such service, as additional rent hereunder, the amount of Tenant's chilled water usage for the Premises for such month as shown on a submeter with respect to same, multiplied by the rate that Landlord may, from time to time, charge for furnishing such chilled water.

8.4.2 Steam. If steam is provided to the Premises as set forth in Section 8.1 above, Tenant shall pay to Landlord, as additional rent hereunder, the Annual Steam Charge for each Lease Year, which charge shall be payable in equal monthly installments, in advance (together with the Minimum Rent), commencing on the Commencement Date (it being understood that if the Commencement Date shall be other than the first day of a calendar month, the charge for the month in which the Commencement Date occurs shall be appropriately prorated). The "**Annual Steam Charge**" shall be (a) an amount determined by Landlord (the "**Initial Steam Charge**") for the first Lease Year in accordance with a usage survey conducted by an engineer selected by Landlord, and (b) for each Lease Year thereafter, an amount equal to the product of (i) the Initial Steam Charge, multiplied by (ii) a fraction, the numerator of which is the Energy CPI for the month immediately preceding the month in which such Lease Year commences and the denominator of which is the Energy CPI for the month immediately preceding the month in which this Lease is fully executed and delivered; *provided, however*, (x) in no event shall the Annual Steam Charge for any Lease Year be less than the Initial Steam Charge, and (y) Landlord shall have the right to further increase the Annual Steam Charge from time to time based upon factors such as increases in Landlord's costs. In case the steam pressure at any time required by Tenant shall be less than that ordinarily supplied by Landlord, Tenant shall furnish, install and maintain such pressure reducing valves as may be required in connection with the furnishing of such steam.

8.4.3 Natural Gas. If natural gas is provided to the Premises as set forth in Section 8.1 above, Tenant shall pay to Landlord monthly, as additional rent hereunder, the charge for Tenant's natural gas usage at the Premises for such month as determined by Landlord in accordance with a survey conducted by an engineer selected by Landlord, which usage charge shall be billed to Tenant at the then Building standard rate that Landlord may, from time to time, charge for furnishing natural gas. At Landlord's election, if permitted by the utility company servicing the Building, Landlord may require that Tenant's usage of natural gas be measured by submeter to be installed by Landlord at Tenant's cost.

8.5 Measuring Tenant's Usage of Utilities; Landlord's Right to Discontinue Furnishing Utilities. (a) With respect to any utility now or hereafter being supplied by Landlord in which Tenant's usage is measured pursuant to a submeter, Landlord, at any time or times during the Term, shall be entitled to measure, from time to time, Tenant's usage of such utility by a survey conducted by an engineer in lieu of measuring Tenant's usage by a submeter. If Landlord elects to so measure Tenant's usage, then Landlord shall be entitled to remove, or to require that Tenant remove from the Premises, in either case, at Tenant's sole cost, such submeter.

(b) Landlord reserves the right to discontinue furnishing any utility to Tenant in the Premises at any time upon not less than 30 days' notice to Tenant; *provided, however*, that if legally permitted, Landlord shall not discontinue furnishing any such service until after Tenant shall have made arrangements to obtain such service directly from the utility supplying the Building unless Tenant shall have failed to act with reasonable diligence in making such arrangements. If Landlord exercises such right, this Lease shall continue in full force and effect and shall be unaffected thereby, except that from and after the effective date of such termination Landlord shall not be obligated to furnish such utility to Tenant and Tenant shall not be required to pay any charge to Landlord in respect of such utility. If Landlord so discontinues furnishing a utility to Tenant, Tenant shall arrange to obtain such utility directly from the public utility company furnishing such utility to the Building. Such utility may be furnished to Tenant by means of the then existing systems serving the Premises or the Building to the extent that the same are available, suitable and safe for such purpose. All meters and equipment which may be required to obtain the utility in question directly from such public utility company shall be furnished and installed by Landlord, at Tenant's expense.

8.6 Limitations; Repair of Utility Meters and other Service Equipment. Any utility service, and Tenant's use thereof, shall not exceed the Building's capacity therefor. Tenant, at Tenant's cost, shall install any meters or submeters as directed by Landlord for measuring the consumption of utilities supplied by Landlord hereunder to the extent not presently serving the Premises. Further, Tenant, at its cost, shall maintain and repair (i) the wires, conduits, fixtures,

pipes, valves, ducts and other plumbing connections and other installations which service the Premises and (ii) the utility meters servicing the Premises, in each case in accordance with any applicable Legal Requirements, the requirements of the utility companies servicing the Building, and any maintenance requirements determined by Landlord in its sole discretion. Such meters and other service equipment furnished and installed by Tenant shall, upon installation thereof, become and remain the property of Landlord. Notwithstanding the foregoing, Landlord may elect (but shall not be so obligated), at Tenant's expense, to perform such maintenance and/or repair of the utility meters and other service equipment servicing the Premises from time to time. Any such maintenance and/or repair service shall be conducted in a manner that Landlord shall deem appropriate. If Landlord elects to perform such maintenance and/or repair service, Tenant shall pay to Landlord within ten (10) days after demand, as additional rent, such sums as Landlord may, from time to time, charge therefor.

8.7 Interruptions of Service. Landlord shall incur no liability for interruption of the above services regardless of duration, cause or result except to the extent that such interruption shall result from Landlord's negligence or willful misconduct, in which event Landlord shall have no liability for consequential damages.

8.8 Other Utilities and Services; Building Security.

8.8.1 Other Utilities and Services. Tenant shall be solely responsible and shall pay all charges for all utilities furnished to the Premises (in addition to the services to be provided by Landlord under this Article 8), including, without limitation, telephone, alarm, guard or other security service. The preceding sentence shall not be deemed to constitute Landlord's consent to any such services or the method of furnishing the same.

8.8.2 Building Security. Without limiting the generality of the provisions of Section 2.3.4 hereof, Landlord may, but shall have no obligation to, from time to time provide security service in the Building; *provided, however*, that Landlord presently intends to furnish security, at levels determined appropriate by Landlord in its sole discretion, as an incident to the operation of the Building as a train terminal. Tenant acknowledges that in order to maintain safety and security to the public areas and the Building, Landlord retains the right to install safety and security systems and devices, and promulgate and enforce such procedures and regulations as to its tenants, their employees, contractors and agents, as may be deemed necessary or desirable by Landlord in its sole discretion; which may include the establishment of Building security procedures such as the distribution to Tenant's employees of photo identification cards and requiring the presentation of such photo identification cards in order to gain access to certain portions of the Building. Tenant shall comply with any and all such safety and security procedures and requirements adopted by Landlord. Notwithstanding anything contained in Article 27 to the contrary, Tenant shall cooperate with Landlord with respect to, and Tenant shall have no right to dispute, contest or challenge, any security procedures and requirements now or hereafter adopted by Landlord.

8.8.3 Sprinkler System. Landlord shall provide a fire protection sprinkler system, including feed and/or cross mains and branch lines installed in a grid pattern, to serve the Premises. Anything elsewhere in this Lease to the contrary notwithstanding, if Legal Requirements or Insurance Requirements (or any requirements of the FDNY) require or recommend any modifications to the sprinkler system (such as additional risers, feed or cross mains or branch lines), alterations, or additional sprinkler heads or other equipment be made or supplied in an existing sprinkler system by reason of Tenant's business or any Tenant's Work or the location of partitions, space design, layout, trade fixtures, or other contents of the Premises, Tenant shall, at Tenant's expense, but subject to Landlord's prior approval, promptly contract directly with Landlord's then designated sprinkler contractor for the design and installation of such sprinkler system installations, modifications, alterations, and supply additional sprinkler heads or other equipment as required, whether the work involved shall be structural or non-structural in nature.

8.8.4 Fire Alarm System. Landlord shall provide to the Premises a junction box wired to Landlord's fire alarm system for the connection of Tenant's fire alarm equipment at the Premises as required by applicable Legal Requirements (or any requirements of the FDNY) and as described in the Mechanical and Electrical Tenant Design Criteria. Any new fire alarm equipment installed by Tenant shall be compatible with Landlord's fire alarm system and upon request, Landlord shall provide the supplier's name of compatible fire alarm equipment. Tenant,

at Tenant's cost, shall contract directly with Landlord's then designated electrical contractor for the connection of Tenant's fire alarm at the junction box. Tenant, at Tenant's cost, shall also arrange for the inspection of the fire alarm system prior to opening for business and obtain a certificate of fitness from the appropriate governmental authority with respect thereto.

8.8.5 No Other Services. Except as otherwise expressly provided in this Article 8, Landlord shall not be required to furnish or make available any other services to the Premises.

ARTICLE 9

REQUIREMENTS OF LAW

9.1 Compliance With Laws. Tenant, at its sole cost and expense, shall comply with all laws, orders and regulations of federal, state, and local authorities (including, without limitation, the ADA and all rules, regulations and requirements of the New York State Historic Preservation Office), and with any lawful direction of any public officer or officers which shall impose any duty upon Landlord or Tenant with respect to the Premises, or the use or occupation thereof (collectively, "**Legal Requirements**"), except that Tenant shall not be under any obligation to make alterations, improvements or repairs outside the Premises or structural alterations, improvements or repairs to the Premises required in order for Tenant so to comply unless (a) required pursuant to the terms of Sections 7.1 or 7.2 hereof, (b) required by reason of a breach of Tenant's obligations hereunder, including, without limitation, use of the Premises for other than the Permitted Use, (c) occasioned by any act, omission or negligence of Tenant or any of its employees, agents, contractors, invitees or licensees, or (d) required as a result of the making of any alteration, improvement or repair. Notwithstanding any other provision of this Lease, no exemptions from local laws, resolutions, ordinances, rules and regulations that are applicable to Landlord under law shall be applicable to or inure to the benefit of Tenant and/or Tenant's use of the Premises except for those exemptions, if any, that are either (x) are consented to in writing by Landlord, in its sole and absolute discretion, and, with such consent, are legally applicable to Tenant and/or Tenant's use of the Premises, or (y) not consented to by Landlord, but are nonetheless legally applicable to Tenant and/or Tenant's use of the Premises.

9.2 No Conflict With Landlord's Insurance Policies. Tenant shall not do or suffer or permit anything to be done in or about the Premises or the Building which would: (a) cause any increase in the insurance rates applicable to, or cancellation of, any policies of insurance carried by Landlord, or (b) violate any requirement of any insurance policy applicable to the Premises or the Building, any requirements of the issuer of such policy, or any orders, rules, recommendations, and other requirements of the New York Board of Fire Underwriters, the Insurance Service Office or any other body exercising the same or similar functions and having jurisdiction over all or any part of the Building or the Premises (collectively, "**Insurance Requirements**"), or (c) cause insurance companies of good standing to refuse to insure the aforesaid interests of Landlord in amounts reasonably satisfactory to Landlord. To the extent that Landlord may elect to self-insure, the standards set forth in the preceding sentence shall apply as if Landlord carried commercially standard insurance policies covering the Building. If as the result of any failure by Tenant to comply with the terms of this Section 9.2, the insurance rates applicable to any policies of insurance carried by Landlord with respect to the Building or the Building equipment or other property of Landlord shall be increased, Tenant agrees to pay Landlord, as additional rent, within five (5) business days after Landlord's rendition of a bill or statement therefor, the portion of the premiums for said insurance attributable to such higher rates.

9.3 Hazardous Substances. In addition to the obligations of Tenant set forth above, Tenant shall (i) not generate, manufacture, transport, treat, discharge, store, install, dispose of or otherwise handle at, on or in the Premises or in or around the Building any hazardous materials, hazardous waste, hazardous substances, pollutants, dangerous or toxic materials or wastes, including without limitation, any petroleum or petroleum products, or asbestos or asbestos containing materials, or any other substance, waste, constituent or material defined or regulated as such in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, each as amended, or any other federal, state or local Legal Requirement now or hereafter in effect regulating, relating to, or imposing liability or standards of conduct concerning air emissions, water discharges, noise emissions, the release or threatened release or discharge of such materials into the environment or otherwise concerning pollution or the protection of the

outdoor or indoor environment or employee and human health and safety (all of the foregoing herein referred to as “**Hazardous Substances**”); (ii) investigate, remove, clean-up and remedy any Hazardous Substance in the Premises or the Building to the satisfaction of Landlord and in compliance with all applicable Legal Requirements and Insurance Requirements (or any requirements of the FDNY), if the presence of such Hazardous Substances resulted from the action or inaction of Tenant, its employees, contractors, subcontractors, agents, licensees or invitees, or otherwise was caused or occurred at the Premises during the Term of this Lease and (iii) defend, hold harmless, and indemnify Landlord, its past, present and future Affiliates, and their respective partners, members, officers, directors, employees, agents, representatives, successors and assigns harmless from and against any and all liabilities, claims, costs, expenses, fines, damages, penalties, fees or expenditures, including reasonable attorneys fees, arising from any environmental conditions or contamination or any violations of Legal Requirements pertaining to environmental conditions or contamination, including, without limitation, the presence of or release of Hazardous Substances at the Premises, personal injury resulting from exposure to, or the release of, Hazardous Substances, natural resource damages, and the disposal or arrangement for disposal of a Hazardous Substance by Tenant. The foregoing shall not preclude Tenant from using and storing cleaning supplies used in the ordinary course of Tenant’s business, provided that (a) such materials are in small quantities, properly labeled and contained, (b) such materials are handled and disposed of in accordance with accepted industry standards for safety, storage, use and disposal, and (c) such materials are used, transported, stored, handled and disposed of in accordance with all applicable Legal Requirements and Insurance Requirements (or any requirements of the FDNY).

ARTICLE 10

DAMAGE BY FIRE OR OTHER CASUALTY

10.1 Responsibility for Repair of Damage. If the Premises or any part thereof shall be damaged or rendered untenable by fire or other casualty, then Tenant shall give prompt notice thereof to Landlord. Unless this Lease is terminated pursuant to Section 10.3, Landlord shall proceed, with reasonable diligence after the collection of the insurance proceeds attributable to such damage, to repair or cause to be repaired the damage to the structural elements of the Building and the Building systems outside of the Premises, if any. In no event shall Landlord be obligated to repair any damage to, or replace, Tenant’s Property or any items of Tenant’s Work including, without limitation, Tenant’s Initial Improvements. Provided that no default or Event of Default shall then exist and be continuing hereunder, Landlord shall disburse to Tenant the proceeds of the insurance against damage by fire or other casualty carried by Tenant as required by Article 16 hereof, after, and to the extent, the same are paid to Landlord, subject to the rights of any Superior Lessor or Superior Mortgagee and to conditions for the disbursement of advances similar to those customarily imposed by construction lenders. Tenant shall, at its expense, in accordance with the terms of this Lease promptly and with reasonable diligence after Landlord shall have completed Landlord’s restoration work, if any, complete the restoration of the Premises to the same condition as existed immediately prior to the occurrence of such damage or destruction.

10.2 Abatement of Rent. From the date of damage to the Premises as the result of fire or other casualty and thereafter during such period as is actually required by Landlord for Landlord to substantially complete its restoration obligations (if any) contained in this Article 10, the Minimum Rent shall be abated to the extent that the Premises shall have been rendered untenable during such period (provided, however, that if in Landlord’s judgment such repairs would have been substantially completed at an earlier date but for Tenant’s having failed to reasonably cooperate with Landlord in effecting Landlord’s restoration work, then Landlord’s restoration work shall be deemed to have been repaired substantially on such earlier date and any reduction or abatement of Rent shall cease on such earlier date). Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from any such damage by fire or other casualty or the repair thereof.

10.3 Termination of Lease. If (a) the Premises shall be substantially or totally damaged or rendered substantially or wholly untenable by fire or other casualty, or (b) the Building shall be so damaged by fire or other casualty that substantial alteration or reconstruction of the Building shall, in Landlord’s sole opinion, be required (whether or not the Premises shall have been damaged), then in any such event, Landlord may, at its option, terminate this Lease by giving Tenant thirty (30) days’ prior notice of such termination, which notice shall be given

within one hundred eighty (180) days after the date of such fire or other casualty, and thereupon this Lease shall cease and terminate with the same force and effect as though the date set forth in Landlord's notice of termination (the "**Termination Date**") were the Expiration Date; and Tenant shall vacate and surrender the Premises to Landlord on or prior to the Termination Date. Notwithstanding the foregoing, in the event a Superior Lease is terminated by reason of any such fire or other casualty, then, at the election of the lessor under such Superior Lease, this Lease shall terminate one (1) day prior to the termination date (the "**Superior Lease Termination Date**") of such Superior Lease with the same force and effect as though such date were the Expiration Date; and Tenant shall have no claim against Landlord on account of the termination of this Lease and Tenant shall vacate and surrender the Premises to Landlord prior to the Superior Lease Termination Date. Unless this Lease is terminated by Landlord, as aforesaid, this Lease shall remain in full force and effect and the parties waive the provisions of any law to the contrary. In the event of any termination of this Lease pursuant to the provisions of this Section, the Minimum Rent shall be apportioned as of the date of termination.

10.4 Waiver of RPL Section 227. This Article shall be considered an express agreement governing any case of damage to or destruction of the Building or any part thereof by fire or other casualty and Section 227 of the Real Property Law of the State of New York, and any other law of like import now or hereafter enacted, shall have no application in such case, and Tenant hereby agrees that the provisions of this Section 10.4 are intended to constitute "an express agreement to the contrary" within the meaning of said RPL Section 227.

ARTICLE 11

EMINENT DOMAIN

11.1 Termination Option; Landlord to Receive Award. If the whole or any portion of the Premises or the Building (whether or not including the Premises) shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then and in that event, at Landlord's option, the Term of this Lease shall cease and terminate from the date of title vesting in the condemning authority (or, if earlier, the date upon which such authority takes possession) and Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term or otherwise. Tenant shall not be entitled to participate or share in any manner in any claim or award for the taking of the Premises or the Building. Nothing contained herein shall preclude Tenant from filing a claim against and receiving compensation from the condemning authority for moveable trade fixtures and personalty owned by Tenant and for Tenant's moving expenses, provided that Landlord's award is not reduced thereby.

11.2 No Termination. If this Lease shall not be terminated pursuant to Section 11.1 hereof, Landlord, at Landlord's expense, shall restore the portion of the Premises not so acquired or condemned to a self-contained rental unit (but excluding Tenant's Property and any items of Tenant's Work) and (a) to the extent that the Premises is rendered untenable until such restoration is completed, the Minimum Rent shall abate beginning on the date on which the Premises actually became untenable, and ending on the date such restoration is substantially completed (provided, however, that if in Landlord's judgment such repairs would have been substantially completed at an earlier date but for Tenant's having failed to reasonably cooperate with Landlord in effecting Landlord's restoration work, then Landlord's restoration work shall be deemed to have been repaired substantially on such earlier date and any reduction or abatement of Rent shall cease as of such earlier date) and (b) for the remainder of the Term after such restoration is completed the Minimum Rent and the Percentage Rent Base Amount shall be proportionately reduced to reflect the diminution in the area of the Premises as so restored.

ARTICLE 12

INDEMNIFICATION; NO LIABILITY

12.1 Tenant's Obligation to Indemnify. To the fullest extent permitted by law, Tenant shall indemnify, defend and hold harmless Metro-North Commuter Railroad Company, Metropolitan Transportation Authority, any party succeeding to the interest of Landlord hereunder, Connecticut Department of Transportation, Midtown Trackage Ventures LLC ("**Midtown Trackage**"), Midtown TDR Ventures LLC, Jones Lang LaSalle Americas, Inc., Jones Lang LaSalle Services, Inc., Williams Jackson Ewing, Inc. (or any successor of any of the

foregoing entities) and any other Superior Lessor and any Superior Mortgagee, and all subsidiaries and Affiliates of any of the foregoing and their agents, servants, directors, officers and employees (collectively, the “**Indemnitees**”) from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys’ fees, disbursements and other charges (whether incurred in connection with any action or proceeding between Tenant and any Indemnitee(s), or in connection with any action or proceeding between a third party and any Indemnitee(s), or otherwise), that are, have been, could have been, or may be imposed upon or incurred by or asserted against any of the Indemnitees by reason of or relating to:

- (a) construction, repair, replacement, restoration or improvement work done by or on behalf of Tenant,
- (b) the use, possession or operation of the Premises by Tenant or any of its principals, agents, employees, contractors, licensees or invitees (in the case of each of the foregoing, however characterized) (each a “**Tenant Party**” and, collectively, the “**Tenant Parties**”),
- (c) any act or omission by Tenant or any Tenant Party,
- (d) any accident, injury (including death) or damage to any person or property occurring in, on, or about the Premises or, if caused by Tenant or any other Tenant Party, the Building or any part thereof or any property adjacent thereto, or
- (e) any default hereunder.

Tenant’s obligations to indemnify, defend and hold harmless an Indemnitee in this Section 12.1 shall not apply to damage, loss or injury caused by the negligence, willful misconduct of, or the breach of this Lease by, any Indemnitee.

12.2 No Liability on Landlord’s Part. To the fullest extent permitted by law, neither Landlord, nor any of the Indemnitees, shall be liable for (a) any damage to property of Tenant or of others entrusted to Landlord or its employees or for the loss of or damage to any property of Tenant by theft; (b) any injury or damage to persons or property resulting from fire, explosion, falling plaster or from the malfunctioning of steam, gas, electricity, air conditioning systems, equipment or fixtures or from water, rain or snow or leaks from any other part of the Building or from the pipes, appliances or plumbing works included therein or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatever nature, unless caused by or due to the gross negligence or intentionally tortious acts of Landlord or any Indemnitee, as the case may be; nor shall Landlord or any Indemnitee be liable for any such damage caused by other tenants or persons in the Building; (c) any latent defect in the Premises or in the Building; (d) notwithstanding whether the injury or damage is caused by any act or failure to act of any Indemnitee, any injury or damage for which Tenant would have been reimbursed under policies of insurance required by the terms of this Lease to be maintained by Tenant (i) had Tenant not failed to procure or maintain such policies of insurance or (ii) had Tenant not failed to procure or maintain such policies of insurance with at least the limits herein specified; or (e) injury to or interruption of Tenant’s business by reason of any of the foregoing events.

12.3 Survival. The provisions of this Article 12 shall survive the expiration or termination of this Lease.

ARTICLE 13

SUBORDINATION

13.1 Lease Subordinate to Mortgages, Ground Leases. This Lease and all rights of Tenant hereunder are and at all times hereafter shall be subject and subordinate to all ground or underlying leases, including, without limitation, the GCT Lease and to any master lease of the Building or of the retail portions thereof now existing or hereafter entered into which affect any part of the real property of which the Premises forms a part, and to all mortgages, deeds of trust, liens, encumbrances and agreements now existing or hereafter entered into which may now or hereafter affect such leases or the real property of which Premises forms a part. This Lease and

all rights of Tenant hereunder are and at all times hereafter shall also be subject and subordinate to the Permitted Exceptions, to the Declaration and to all renewals, modifications, consolidations, replacements and extensions of any of the foregoing. Without limiting the generality of the foregoing, this Lease is subject and subordinate to the following (collectively, the “**GCT Lease**”): that certain Amended and Restated Agreement of Lease dated as of April 8, 1994 by and between American Premier Underwriters Inc. and The Owasco River Railway, Inc., predecessors-in-interest to Midtown Trackage Ventures LLC, as landlord, and MTA, as tenant, in connection with a Memorandum of Lease was recorded on April 14, 1994 in the Office of the City Register, New York County, at Reel 2080, Page 1537, as amended by that certain First Amendment dated June 5, 1995 by and between American Premier Underwriters Inc. and The Owasco River Railway, Inc., predecessors-in-interest to Midtown Trackage Ventures LLC, as landlord, and MTA, as tenant, in connection with a Memorandum of First Amendment was recorded on August 21, 1995 in the Office of the City Register, New York County, at Reel 2235, Page 1035; and all of the covenants, agreements, terms, provisions and conditions contained therein (including, without limitation, Article 5 thereof) and to all renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute promptly any certificate that Landlord may request. Tenant hereby irrevocably constitutes and appoints Landlord as Tenant’s attorney-in-fact, coupled with an interest, to execute any such certificate or certificates for and on behalf of Tenant. Any such leases and agreements to which this Lease is, at the time referred to, subject and subordinate are herein collectively called “**Superior Lease**” and the lessor of a Superior Lease or its successor in interest, at the time referred to, is herein called “**Superior Lessor**”; any such mortgages to which this Lease is, at the time referred to, subject and subordinate are herein collectively called “**Superior Mortgage**” and the holder of a Superior Mortgage or its successor in interest, at the time referred to, is herein called “**Superior Mortgagee**”. Any Superior Mortgagee may elect that this Lease shall have priority over its Superior Mortgage and, upon notification by such Superior Mortgagee to Tenant, this Lease shall be deemed to have priority over such Superior Mortgage, whether this Lease is dated prior to or subsequent to the date of such Superior Mortgage. If, in connection with the (i) entering into by Landlord of a Superior Lease or (ii) obtaining, continuing, modifying or renewing of financing for which the land upon which the Building is located (the “**Land**”) and/or the Building or the interest of a lessee under a Superior Lease represents collateral, in whole or in part, such prospective Superior Lessee or Superior Mortgagee shall request reasonable modifications of this Lease as a condition of such Superior Lease or Superior Mortgage (or any amendment, extension or modification thereof), Tenant shall consent thereto, provided that such modifications do not materially adversely either increase the obligations or diminish the rights of Tenant under this Lease.

13.2 Consent to Modifications. If Landlord, a Superior Lessor or a Superior Mortgagee notifies Tenant that a Superior Lease or Superior Mortgage so provides, then this Lease may not be cancelled or surrendered, or modified or amended so as to reduce the rent, shorten the Term or adversely affect in any other material respect the rights of Landlord hereunder without the consent of any such Superior Lessor or Superior Mortgagee, except that no consent from any Superior Lessor or Superior Mortgagee to the institution or prosecution of any action or proceedings against Tenant by reason of a default on the part of Tenant under the terms of this Lease shall be required.

13.3 Attornment. If, at any time prior to the expiration or earlier termination of this Lease, any Superior Lessor or Superior Mortgagee (or any person, or such person’s successors or assigns, who acquires the interest of Landlord under this Lease through foreclosure action or an assignment or deed in lieu of foreclosure) shall succeed to the rights of Landlord under this Lease through possession or foreclosure or delivery of a new lease or deed or otherwise, Tenant agrees, at the election and upon request of any such person (collectively, “**Successor Landlord**”), from time to time, to fully and completely attorn to and recognize any such Successor Landlord as Tenant’s landlord under this Lease upon the then executory terms of this Lease, provided such Successor Landlord shall agree in writing to accept Tenant’s attornment. The foregoing provisions of this Section shall inure to the benefit of any such Successor Landlord, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the termination of the Superior Lease, shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. Upon demand of any such Successor Landlord, Tenant agrees to execute from time to time instruments to evidence and confirm the foregoing provisions of this Section, satisfactory to any such Successor Landlord,

acknowledging such attornment and setting forth the terms and conditions of its tenancy, and Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute any such instrument for and on behalf of Tenant. Upon such attornment this Lease shall continue in full force and effect as a direct lease between such Successor Landlord and Tenant upon all of the then executory terms of this Lease except that such Successor Landlord shall not be (a) liable for any previous act or omission or negligence of Landlord under this Lease; (b) subject to any counterclaim, credit, defense, demand or offset, which theretofore shall have accrued to Tenant against Landlord; (c) obligated to perform Landlord's Work, if any; (d) bound by any previous modification or amendment of this Lease or by any previous prepayment of more than one month's rent, unless such modification or prepayment shall have been approved in writing by Superior Lessor or Superior Mortgagee through or by reason of which Successor Landlord shall have succeeded to the rights of Landlord under this Lease; (e) liable for any security deposited pursuant to this Lease unless such security has actually been delivered to such Successor Landlord; (f) obligated to repair the Premises or the Building or any part thereof, in the event of total or substantial total damage beyond such repair as can reasonably be accomplished from the net proceeds of insurance actually made available to Successor Landlord; or (g) obligated to repair the Premises or the Building or any part thereof in the event of partial condemnation beyond such repair as can reasonably be accomplished from the net proceeds of any award actually made available to Successor Landlord, as consequential damages allocable to the part of the Premises or the Building not taken. Nothing contained in this Section shall be construed to impair any right otherwise exercisable by any such owner, holder or lessee.

13.4 Superior Lessor and Mortgagee Cure Rights. If any act or omission by Landlord would give Tenant the right, immediately or after lapse of time, to cancel or terminate this Lease or to claim a partial or total eviction, abatement of rent, set off or counterclaim, Tenant will not exercise any such right until (a) it has given written notice of such act or omission to each Superior Mortgagee and each Superior Lessor, whose name and address shall have previously been furnished to Tenant, and (b) a reasonable period for remedying such act or omission shall have elapsed following such giving of notice and following the time when such Superior Mortgagee or Superior Lessor shall have become entitled under such Superior Mortgage or Superior Lease, as the case may be, to remedy the same (which shall in no event be less than the period to which Landlord would be entitled under this Lease to effect such remedy) provided such Superior Mortgagee or Superior Lessor shall, with reasonable diligence, give Tenant notice of intention to, and commence and continue to, remedy such act or omission or to cause the same to be remedied. At all times during the Term, whether or not Landlord shall be in default under the terms of this Lease, Tenant shall accept performance by Superior Lessor or Superior Mortgagee of any of Landlord's obligations under this Lease on Landlord's part to be performed. Without limiting the generality of the foregoing, Tenant has been furnished with the name and address of the following Superior Lessor: Midtown Trackage Ventures LLC, 551 Fifth Avenue, 34th Floor, New York, New York 10176.

13.5 Development Rights. Tenant hereby irrevocably waives any and all rights it may have (as a "party-in-interest" or otherwise) in connection with any zoning lot merger or transfer of development rights with respect to the Premises and/or the Building including, without limitation, any rights it may have to be a party to, to contest, or to execute, any Declaration of Restrictions (as such term is defined in Section 12-10 of the Zoning Resolution of the City of New York effective December 15, 1961, as amended) with respect to the Premises, which would cause the Premises or the Building to be merged with or unmerged from any other zoning lot pursuant to such Zoning Resolution or to any document of a similar nature and purpose, and Tenant agrees that this Lease shall be subject and subordinate to any Declaration of Restrictions or any other document of similar nature and purpose now or hereafter affecting the Building. Tenant shall cooperate with Landlord, without cost or expense to Tenant, in all respects to effectuate any such zoning lot merger or transfer of development rights. Without limiting the generality of the foregoing, Tenant shall execute and deliver all documents or instruments necessary or desirable to evidence or effectuate any such transfer, and, in confirmation of Tenant's subordination and waiver hereunder, Tenant shall execute and deliver promptly any certificate or instrument that Landlord reasonably may request. In connection with Tenant's cooperation, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificate or instrument for and on behalf of Tenant, such power of attorney being coupled with an interest. Landlord and Tenant hereby acknowledge and

agree that Midtown Trackage Ventures LLC and Midtown TDR Ventures LLC are intended to be third-party beneficiaries of this Section 13.5.

ARTICLE 14

ASSIGNMENTS AND OTHER TRANSFERS OF TENANT'S INTEREST

14.1 Limitations on Tenant's Rights. Neither this Lease nor any part hereof shall by operation of law or otherwise be sold, assigned, mortgaged, pledged, hypothecated or otherwise transferred by Tenant nor shall the Premises or any part thereof be encumbered in any manner nor shall the Premises or any part thereof be sublet, licensed or concessioned to or be used or occupied by anyone other than Tenant without the express prior written consent of Landlord in each instance, which consent may be granted or withheld in Landlord's sole and absolute discretion. Tenant hereby expressly covenants and agrees that the sale or transfer of more than twenty percent (20%) (at any one time or, in the aggregate, from time to time) of the shares of any class of the issued and outstanding stock of Tenant, its successors or assigns or the issuance of additional shares of any class of its stock to the extent of more than twenty percent (20%) (at any one time or, in the aggregate, from time to time) of the number of shares of said class of stock issued and outstanding at the time that it became the tenant hereunder or the sale or transfer of more than twenty percent (20%) (at any one time or, in the aggregate, from time to time) of the partnership, limited liability company, joint venture or other unincorporated association interests of Tenant, its successors or assigns shall, in each such instance, constitute an assignment for all purposes of this Lease and, unless the prior written consent of Landlord has been obtained in each instance, shall constitute a default under this Lease and shall entitle Landlord to exercise all rights and remedies provided for herein in the case of default. In addition to and without limiting the foregoing, for purposes of this Article 14, an "assignment" of this Lease shall also be deemed to include, without limitation, any change in "control" of an entity. For purposes of this Lease, the term "**control**" shall be deemed to mean possession of the power, directly or indirectly, to direct or cause the direction of management and policy of any entity. Any assignment, sublease, mortgage, pledge, hypothecation or transfer without Landlord's express prior written consent shall be null and void *ab initio*.

14.2 Rights of Landlord/No Waiver. If this Lease be assigned whether or not in violation of the terms hereof, Landlord may collect Rent from the assignee. If the Premises or any part thereof be sublet or be used or occupied by anyone other than Tenant, whether or not in violation of the terms hereof, Landlord may collect Rent from the subtenant or occupant. In either event, Landlord may apply the net amount collected to the Rent herein reserved. References in this Lease to use or occupancy by anyone other than Tenant shall not be construed as limited to subtenants and those claiming under or through subtenants but as including also licensees and others claiming under Tenant immediately or remotely. Tenant herein named and each immediate or remote successor in interest of Tenant herein named shall remain fully liable as a primary obligor for the performance of all of Tenant's obligations hereunder notwithstanding any assignment or any subletting and shall remain (a) liable jointly and severally (as a primary obligor) with its assignee and all subsequent assignees for the performance of Tenant's obligations hereunder notwithstanding any assignment and (b) without limiting the generality of the foregoing, fully responsible and liable to Landlord for all acts through or under any subtenant or assignee which shall not be in compliance with the terms of this Lease and any such non-compliance with the terms of this Lease shall be deemed to be non-compliance by Tenant.

14.3 Procedure for Consent to Assignment or Subletting. If Tenant desires to assign this Lease or to sublet the Premises or any portion thereof, then Tenant shall submit to Landlord a request for permission to assign this Lease, or sublet the Premises or any portion thereof, as the case may be, setting forth a proposed commencement or effective date of the assignment or sublease, which date shall be not less than sixty (60) nor more than one hundred and twenty (120) days after the sending of said notice. Tenant shall include with said notice a copy of the proposed assignment agreement or sublease and copies of all agreements collateral thereto, and shall promptly provide to Landlord any additional information regarding the proposed assignee and assignment agreement or subtenant and sublease, as the case may be, as Landlord may request. Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord in connection with any assignment, subletting, mortgage, pledge, hypothecation or transfer of this Lease.

14.4 Sublease Subordination. Any and all subleases of the Premises by Tenant shall be expressly subject and subordinate to all of the covenants, agreements, terms, provisions and conditions contained in this Lease and in all Superior Leases (including, without limitation, the GCT Lease), and shall contain provisions, as between Tenant and Tenant's subtenant, substantially the same as Sections 13.1, 13.3 and 13.5 hereof.

ARTICLE 15

ACCESS TO PREMISES; WORK IN BUILDING

15.1 Landlord's Right of Access. Subject to the provisions of Section 15.2 hereof, Landlord, any Superior Lessor, and their respective agents and representatives shall have the right to enter the Premises at all reasonable times to examine the same, and to show them to prospective purchasers or tenants of the Building, and, in the case of Landlord and its agents and representatives, to make such decorations, repairs, alterations, improvements or additions as Landlord may deem necessary or desirable, and Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part and the Rent reserved shall not abate while said decorations, repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of Tenant, or otherwise. During the twelve (12) months prior to the expiration of the Term or of any renewal hereof, Landlord may exhibit the Premises to prospective tenants or purchasers.

15.2 Entry by Landlord. Landlord shall have the right to enter the Premises at any time, without notice to Tenant, to the extent required as the result of an emergency or other exigent circumstances. If Tenant shall not be personally present to open and permit an entry into the Premises at any time when entry therein shall be necessary as a result of an emergency or other exigent circumstances, then Landlord may forcibly enter the same, without rendering Landlord liable therefor (if during such entry Landlord shall accord reasonable care to Tenant's property), and without in any manner affecting the obligations and covenants of this Lease. If no emergency or other exigent circumstances exist, then Tenant shall permit Landlord access to the Premises upon reasonable prior notice thereof.

15.3 Work in Building. Tenant acknowledges that Landlord may (but shall not be required to) perform substantial alterations to portions of the Building outside of the Premises. Tenant further acknowledges that from time to time, throughout the Term of this Lease, Landlord will be performing construction work in and about the Building and, at times, such construction work may result in noise and disruption to Tenant's business. Landlord reserves the right, at any time, without it being deemed a constructive eviction and without incurring any liability to Tenant therefor, or affecting or reducing any of Tenant's covenants and obligations hereunder, to make or permit to be made such work and any other changes, alterations, additions, repairs and improvements in or to the Building and the fixtures and equipment thereof, as well as in or to the street entrances, doors, halls, passages, elevators, escalators and stairways thereof, and other public parts of the Building, as Landlord shall deem necessary or desirable and to restrict or prohibit access thereto (and to the Premises) in connection with any such work, changes, alterations, repairs, additions and/or improvements. Without limiting the generality of the foregoing, in connection with such work Landlord may erect scaffolding, and restrict access to the elevators, lobby, or other common areas, of the Building. In addition to and without limiting any provision of this Lease, Tenant agrees that Landlord shall not be liable for, and Tenant expressly waives and releases Landlord and the Indemnitees from, any liability and any and all claims Tenant may have against such parties for any loss, injury or other damage to person and property, including without limitation, lost profits or business losses, and any and all consequential damages, arising or alleged to be arising as a result of any such construction or other work activity or other changes, alterations, additions, repairs and improvements conducted by Landlord or Landlord's agents.

ARTICLE 16

INSURANCE

16.1 Insurance Requirements.

16.1.1 Insurance to be Carried at All Times. At all times during the Term, Tenant, at its sole cost and expense, shall carry or cause to be carried policies of insurance as set forth below:

(a) Commercial General Liability Insurance (I.S.O. 2001 Form or equivalent) approved by Landlord in Tenant's name with a combined single limit of liability of at least \$10,000,000 for each occurrence and \$20,000,000 in the general aggregate limit, for injuries to persons (including death) and damage to property. This coverage shall contain an exception to any pollution exclusion which insures damage or injury arising out of heat, smoke or fumes from a hostile fire. Such policy shall be written on an occurrence form, and shall include:

(i) Coverage for contractual and assumed liability by Tenant under this Lease (including Tenant's indemnification obligations under Section 12.1 hereof);

(ii) Personal and Advertising Injury Coverage;

(iii) Products Completed Operations Coverage with an aggregate limit of at least \$2,000,000;

(iv) Independent Contractors Coverage;

(v) Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect; and

(vi) Additional Insured Endorsement (I.S.O. Form CG 2010 version or equivalent additional insured endorsement approved by Landlord) naming the following entities and their subsidiaries and Affiliates (collectively, the "**Additional GCT Insured**"): Metro-North Commuter Railroad Company, Metropolitan Transportation Authority, Connecticut Department of Transportation, Midtown Trackage Ventures LLC, Midtown TDR Ventures LLC, Jones Lang LaSalle Americas, Inc., Jones Lang LaSalle Services, Inc., and Williams Jackson Ewing, Inc. (or any successor of the foregoing entities).

(b) Property Insurance against "all risk" of loss to (i) all items of Tenant's Work including, without limitation, Tenant's Initial Improvements and (ii) all Tenant's Property, in an amount equal to one hundred (100%) percent of the replacement value of such Tenant's Work and such Tenant's Property (as reasonably determined by Landlord), including any increase in value from increased costs. Such insurance policy shall provide that adjustment of the loss shall not be finalized without Landlord's consent and the proceeds thereof shall be payable to Landlord, to be held and disbursed as provided in Section 10.1 hereof, or to Superior Mortgagee under a standard mortgagee clause, or to Superior Lessor, as Landlord shall advise Tenant; provided, however, that, notwithstanding anything to the contrary contained in Section 10.1 above or elsewhere in this Lease, the proceeds thereof with respect to Tenant's Property shall be payable directly to Tenant.

(c) Workers' Compensation Insurance (including Employer's Liability Insurance with a limit of at least \$2,000,000, which limit may be met by a combination of primary and excess insurance) meeting the statutory limits of New York State.

(d) Host Liquor Liability Insurance (if Tenant sells or dispenses alcoholic beverages, provided that nothing contained herein shall be deemed to constitute Landlord's consent to Tenant selling or dispensing alcoholic beverages) with a limit of at least \$2,000,000 for each occurrence.

(e) Business Income Loss Insurance on an actual loss sustained basis with all risk coverage, with an overall policy limit of not less than twelve (12) months' current annual Minimum Rent.

16.1.2 Construction Insurance. During the performance of any Tenant's Work, including, without limitation, Tenant's Initial Improvements, Tenant (or its contractor) shall carry or cause to be carried the following insurance and such additional insurance having limits as Landlord may from time to time require; which shall meet all general policy provisions set forth in Sections 16.3, 16.4 and 16.5.

(a) Commercial General Liability Insurance (I.S.O. 2001 Form or equivalent) approved by Landlord in the contractor's name with a combined single limit of liability of at least \$2,000,000 for each occurrence and \$4,000,000 in the general aggregate limit, for injuries to persons (including death) and damage to property. In the event the Tenant's Work is reasonably estimated to cost in excess of \$500,000, then the limits of liability in the preceding sentence shall be increased to \$5,000,000 for each occurrence and \$10,000,000 in the general aggregate. Such policy shall be written on an occurrence form, and shall include:

(i) Coverage for contractual and assumed liability by Tenant under this Lease (including Tenant's indemnification obligations under Section 12.1 hereof);

(ii) Personal and Advertising Injury Coverage;

(iii) Products Completed Operations with an aggregate limit of at least \$2,000,000;

(iv) Independent Contractors Coverage;

(v) Contractual Liability Exclusion, applicable to construction or demolition operations to be performed within 50 feet of railroad tracks, must be voided, where necessary;

(vi) Coverage for claims for bodily injury asserted by an employee of an additional insured and any Employer Liability Exclusion which may otherwise operate to exclude such coverage shall be voided in this respect;

(vii) Additional Insured Endorsement (I.S.O. Form CG 2010-10-01 and CG 2037-10-01 versions or equivalent additional insured endorsement approved by Landlord) naming the Additional GCT Insured; and

(viii) "XCU" coverage (Explosion, Collapse and Underground Hazards) where necessary.

(b) Builder's Risk/Installation Floater Insurance in an "all risk" completed value form in an amount equal to the total value of the work to be performed, including the interests of each of the Indemnitees, as those may appear. The insurance shall cover any and all real and personal property owned, used or intended for use or hereafter created, installed or acquired, including while in the course of building, erection, installation and assembly. The policy shall also include coverage for the tools owned by mechanics, and machinery, tools and equipment, and other personal property of any kind owned, rented or in the care, custody and control of the contractor, and its subcontractors, used in the building, erection, assembly and installation including materials, equipment, machinery and supplies of any nature whatsoever, used or intended for use or hereafter created, installed or acquired as applicable. Said policy shall remain in force until the construction is completed and accepted. The policy shall provide that:

(i) any requirement for co-insurance must be voided;

(ii) in the event said policy has a deductible, such deductible amount shall not exceed \$25,000, except with the express permission of Landlord;

(iii) said policy is to be written with the contractor as named insured, the Indemnitees as additional named insured, and Landlord as loss payee, as their interests may appear;

(iv) said policy shall be endorsed to provide that "all premium considerations are the sole responsibility of Tenant or its contractor"; and

(v) losses are to be adjusted with Landlord.

(c) Worker's Compensation Insurance (including Employer's Liability Insurance with limits of not less than \$2,000,000, which limit may be met by a combination of primary and excess insurance) meeting the statutory limits of New York State.

(d) Railroad Protective Insurance, if required by Landlord, in an amount determined by Landlord.

16.2 General Requirements Applicable to Insurance Policies.

16.2.1 Insurance Companies; Form. All insurance required to be carried by Tenant pursuant to the terms of this Lease shall be effectuated by enforceable policies issued by reputable insurers licensed to do business in the State of New York, and rated "A-/VII" or better by A.M. Best Company and approved by Landlord. Tenant's policies must be: (i) written in accordance with the requirements of this Article, as applicable; and (ii) endorsed in form acceptable to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice to Landlord c/o Jones Lang LaSalle Americas Inc., 25 Vanderbilt Avenue, Hall 3A, New York, New York 10017, by Certified Mail, return receipt requested. Except as otherwise provided herein, policies written on a "claims-made" basis are not acceptable. Evidence of each renewal or replacement of a policy of insurance shall be delivered by Tenant to Landlord c/o Jones Lang LaSalle Americas Inc. at the address set forth above, at least fourteen (14) days prior to the expiration of such policy, with terms and limits no less favorable than the expiring policy.

16.2.2 Applicable to Self-Insurance/Deductibles. Except as otherwise indicated in the detailed coverage paragraphs below, Tenant's self-insured retentions and policy deductibles shall not exceed \$25,000, unless such increased deductible or retention is approved by Landlord. Tenant shall be responsible for all claim expense and loss payments within the deductible or self-insured retention.

16.3 Required Proofs of Insurance. (a) On or prior to the Commencement Date, Tenant shall deliver certificates of insurance evidencing all policies of insurance required to be carried by Tenant pursuant to the terms of Section 16.1.1 to Landlord c/o Jones Lang LaSalle Americas Inc., 25 Vanderbilt Avenue, Hall 3A, New York, New York 10017. Each certificate of insurance must (i) be provided on Landlord's certificate of insurance form; (ii) be signed by an authorized representative of the insurance carrier or producer and notarized; (iii) disclose any deductible, self-insured retention, aggregate limit or any exclusions to the policy that materially change the coverage; (iv) indicate the additional insureds and named insureds as required herein; (v) reference the Lease on the face of the certificate; and (vi) expressly reference the inclusion of all required endorsements (the requirements set forth in the foregoing clauses (i)-(vi) are herein called the "**Certificate Requirements**").

(b) Prior to the commencement of any Tenant's Work, including, without limitation, Tenant's Initial Improvements, Tenant (or its contractor) shall deliver to Landlord (at the address set forth in Section 16.3(a) above) the following: (i) certificates of insurance evidencing all policies of insurance required to be carried by Tenant pursuant to the terms of Sections 16.1.2(a) and (c), which certificates must comply with the Certificate Requirements, and (ii) a detailed insurance binder, ACORD or Manuscript Form, with respect to the insurance required pursuant to the terms of Sections 16.1.2(b) and (d). Within thirty (30) days after Landlord's receipt of the insurance binder described in the foregoing clause (ii), Tenant (or its contractor) shall deliver to Landlord (at the address set forth in Section 16.3(a) above) the original policies of insurance required to be carried by Tenant pursuant to the terms of Sections 16.1.2(b) and (d).

(c) In addition to the certificates of insurance required by Sections 16.3(a) and 16.3(b) above, if requested by Landlord, Tenant shall also deliver to Landlord (at the address set forth in Section 16.3(a) above), within forty-five (45) days after Landlord's request, a copy of each of the policies of insurance required to be carried by Tenant pursuant to the terms of Sections 16.1.1, 16.1.2(a) and 16.1.2(c), in each case certified by the insurance carrier as being true and complete.

(d) Nothing contained in this Section 16.3 shall be deemed to limit Tenant's liability to the limits of liability or coverage of the policies, their renewals, or replacements. If, at any time during the Term of this Lease, insurance as required is not in effect, or proof thereof is not provided to Landlord, then Landlord shall have the option to: (a) direct Tenant to suspend work or operation with no additional cost or extension of time due on account thereof, or (b) treat such failure as an Event of Default.

16.4 Required Insurance Policy Clauses; Waiver of Subrogation. Each policy of insurance required to be carried pursuant to the provisions of this Article 16 shall contain (i) a provision that no act or omission of Tenant or Landlord shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained (other than acts intended to cause the damage insured against and except insofar as the loss is caused by an uninsurable risk), and (ii) with respect to policies insuring Tenant's property, fixtures and improvements against loss, if the insurer would otherwise have a right to subrogation, a written acknowledgment by the insurance company that its right to subrogation has been waived with respect to all of the named insureds and additional insureds named in such policy, or if such waiver should be unobtainable or unenforceable, (a) an express agreement by Tenant's insurance company that such policy shall not be invalidated if the insured waives or has waived before the casualty or liability the right of recovery against any party responsible for a casualty or liability covered by the policy, or (b) any other form of permission by Tenant's insurance company for the release of the other party. If such waiver, agreement or permission shall not be, or shall cease to be, obtainable from Tenant's insurance company, then Tenant shall so notify Landlord promptly after learning thereof. During any period while the foregoing waiver of right of recovery is in effect, Tenant hereby waives any claims and rights of recovery it may have against Landlord with respect to any loss or damage incurred by Tenant to the extent of the limits of insurance required to be carried by Tenant under this Lease. Without limiting the generality of the foregoing, Tenant shall look first to the proceeds of any insurance prior to making any claim against Landlord with respect to any damage to Tenant's property, fixtures and improvements.

16.5 Tenant's Insurance Primary Coverage.

16.5.1 Primary Coverage. Tenant shall not carry any separate or additional insurance concurrent in form or contributing in the event of any loss or damage with any insurance required to be maintained by Tenant under this Lease, and all policies of insurance procured by Tenant shall state or be endorsed to provide that (a) the coverage afforded under Tenant's policies shall apply on a primary basis and not on an excess or contributing basis with any other insurance policies which may be available to Landlord or any Indemnitee, (b) Tenant's policies, primary and excess, must be exhausted prior to implicating any Landlord policy that may be available, and (c) if a contractor's policy contains any provision that may adversely affect whether Tenant's policies are primary and must be exhausted before implicating any available Landlord policy, Tenant's and its contractor's policies shall nevertheless be primary and must be exhausted prior to implicating any Landlord policy available.

16.5.2 Umbrella Excess Liability Insurance. The required limits of coverage may be provided in the form of a primary policy or a combination of primary and umbrella/excess policies. When the minimum contract amounts can only be met by applying the umbrella/excess policy, the umbrella/excess policy must follow the form of the underlying primary policy and be extended to "drop down" to become primary, on an occurrence basis, in the event primary limits are reduced or aggregate limits are exhausted.

16.6 Blanket and/or Master Policies. The insurance required to be carried by Tenant pursuant to the provisions of this Article may, at Tenant's option, be effected by so-called "blanket", "wrap-up" and/or "master" policies issued to Tenant and/or its Affiliates covering the Premises and other properties owned or leased by Tenant or its Affiliates, provided such policies (i) otherwise comply with the provisions of this Lease, and (ii) by endorsement, allocate to the Premises the specified coverage and limits of coverage herein required from all insureds required to be named as insureds hereunder.

ARTICLE 17

TENANT'S DEFAULT; LANDLORD'S REMEDIES

17.1 Tenant's Default. This Lease and the Term hereof are subject to the following conditions of limitation (each, an "**Event of Default**"):

- (a) if Tenant shall fail to pay any installment of Rent, or any part thereof, when the same shall become due and payable and such failure shall continue for five (5) days after notice thereof from Landlord to Tenant; *provided, however*, that if Landlord has given two notices of default under this clause (a) in any Lease Year, any subsequent failure to pay

by Tenant during such Lease Year under this clause (a) when such payment is due shall be deemed an Event of Default without notice thereof from Landlord to Tenant; or

(b) if the Premises shall become abandoned; or

(c) if Tenant's interest in this Lease shall devolve upon or pass to any person or entity, whether by operation of law or otherwise, and whether directly or indirectly, except as Landlord may expressly permit by written notice to Tenant and such default shall remain uncured for five (5) days after notice thereof from Landlord to Tenant; or

(d) if Tenant shall fail to perform or observe any term, covenant, or condition of this Lease (other than those specifically referred to in paragraphs (a) or (c) of this Section) on the part of Tenant to be performed or observed and such failure shall continue for fifteen (15) days after notice thereof from Landlord to Tenant (or immediately upon notice thereof from Landlord to Tenant in the case of Tenant's failure to maintain any insurance required to be maintained by Tenant under this Lease), or, if said default is curable but shall reasonably require longer than fifteen (15) days to cure, if Tenant shall fail to commence to cure said default within fifteen (15) days after receipt of notice thereof and/or fail to prosecute the curing of the same to completion continuously and with due diligence, and in any event within such period of time as will prevent Landlord from being subjected to the risk of criminal liability or termination of any underlying lease or foreclosure of any mortgage; or

(e) (i) if Tenant (or Guarantor, if any) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(ii) if Tenant (or Guarantor, if any) shall commence or institute any case, proceeding or other action seeking relief on its behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property; or

(iii) if Tenant (or Guarantor, if any) shall make a general assignment for the benefit of creditors; or

(iv) if any case, proceeding or other action shall be commenced or instituted against Tenant (or Guarantor, if any) seeking to have an order for relief entered against it as debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, which either (A) results in any such entry of an order for relief, adjudication of bankruptcy or insolvency or such an appointment or the issuance or entry of any other order having a similar effect or (B) remains undismissed for a period of sixty (60) days; or

(v) if any case, proceeding or other action shall be commenced or instituted against Tenant (or Guarantor, if any) seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof;

(vi) if a trustee, receiver or other custodian is appointed for any substantial part of the assets of Tenant (or Guarantor, if any) which appointment is not vacated or effectively stayed within seven (7) business days; or

(f) if Tenant (or any Affiliate of Tenant) and Landlord (or any Affiliate or subsidiary thereof) have entered into any lease or other possessory agreement and Tenant (or any Affiliate of Tenant) is in default under the said lease or other possessory agreement, then any default under such other lease or other possessory agreement may, at Landlord's option, be considered for all purposes of this Article 17 to be an Event of Default under this Lease; or

(g) the submission by Tenant to Landlord of an intentionally false or incomplete Certification Regarding Disclosure of Prior Non-Responsibility Determination pursuant to New York State Finance Law §§139-j and 139-k; or

(h) if Tenant shall fail to immediately correct any unsafe condition in or about the Premises after receipt by Tenant of a written demand to correct or a violation notice signed by any Metro-North officer or employee with responsibility to inspect or monitor the safety of the Building and/or the Premises (each, a “**Safety Violation Notice**”); or

(i) a felony conviction, either prior to or during the Lease Term, of Tenant or Guarantor, if any, or any of their respective officers, directors, principals, employees or “Affiliates” thereof (solely for purposes of this paragraph 17.1(i), the term “Affiliates” shall have the meaning set forth in the Leasing Guidelines, i.e., any entity that (1) controls or owns more than a 30% equity interest in Tenant or (2) is controlled by, or more than a 30% equity interest in which is owned by or for the benefit of, either (x) Tenant or (y) any person (or any member of the immediate family (i.e., spouse, father, mother, brother, sister, children, and stepchildren) of any person) or any entity that controls, or owns more than a 30% equity interest in, Tenant) thereof; and such convicted felon’s relationship with Tenant shall continue for fifteen (15) days after notice thereof from Landlord to Tenant; or

(j) if a second or subsequent Gross Sales Records Default shall occur hereunder.

17.2 Termination. (a) If an Event of Default described in Section 17.1 shall occur and Landlord, at any time thereafter, at its option gives written notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such notice, which date shall not be less than five (5) days after the giving of such notice, then this Lease and the Term and all rights of Tenant under this Lease shall expire and terminate as of such date, and Tenant immediately shall quit and surrender the Premises.

(b) Anything contained herein to the contrary notwithstanding, if such termination shall be stayed by order of any court having jurisdiction over any proceeding described in Section 17.1(e) hereof, or by federal or state statute, then, following the expiration of any such stay, or if Tenant, or Tenant as a debtor in possession or the trustee appointed in any such proceedings (being collectively referred to as “Tenant” only for the purposes of paragraphs (b) and (c) of this Section 17.2) shall fail to assume Tenant’s obligations under this Lease within the period prescribed therefor by law or within one hundred twenty (120) days after entry of the order for relief or as may be allowed by the court, whichever is less, or if Tenant shall fail to provide adequate protection of Landlord’s right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant’s obligations under the Lease, Landlord, to the extent permitted by law or by leave of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Lease on five (5) days’ notice to Tenant and upon the expiration of such five (5) day period this Lease shall cease and expire as aforesaid and Tenant shall immediately quit and surrender the Premises as aforesaid. Upon the termination of this Lease as provided above, Landlord, without notice, may re-enter and repossess the Premises using such force for that purpose as may be necessary without being liable to indictment, prosecution or damages therefor and may dispossess Tenant by summary proceedings or otherwise.

(c) If, at any time, (i) Tenant shall comprise two (2) or more persons, and/or (ii) Tenant’s obligations under this Lease shall have been guaranteed by any person other than Tenant, and/or (iii) Tenant’s interest in this Lease shall have been assigned, then the term “Tenant” as used in Section 17.1(e) hereof shall also be deemed to include and shall apply to any one or more of the persons primarily or secondarily liable for Tenant’s obligations under this Lease. Any monies received by Landlord from or on behalf of Tenant during the pendency of any proceeding of the types referred to in said Section 17.1(e) shall be deemed paid as compensation for the use and occupation of the Premises and the acceptance of any such compensation by Landlord shall not be deemed an acceptance of rent or a waiver on the part of Landlord of any rights under this Article.

(d) Landlord and Tenant agree and acknowledge that (i) this Lease constitutes a “lease of real property in a shopping center” as such term is used in the Bankruptcy Code, (ii) the Premises are part of an integrated center of retail establishments of the finest

quality with due regard to the importance of, among other things, the tenant mix and balance in the shopping center, and (iii) neither Tenant's interest in this Lease nor in the estate created hereby shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise except as may be specifically provided therein. Tenant acknowledges that any assignment of this Lease without the express consent of Landlord, which results in the breach of (or noncompliance with) any provision of this Lease, or the lease or financing agreement of any other tenant of the Building, including without limitation, those provisions relating to radius, location, use or exclusivity, will result in substantial prejudice and harm to Landlord and to the other tenants.

The provisions of Sections 17.2(c) and (d) shall apply only in respect of the circumstances described in Section 17.1(e) and as such are not intended to constitute modifications of any of the provisions of Article 14 except in such circumstances.

17.3 Re-Entry; Continued Liability; Reletting. (a) If this Lease shall be terminated pursuant to or as provided in Section 17.2, Landlord and Landlord's agents and employees may immediately or at any time thereafter re-enter the Premises, or any part thereof, either by summary dispossession proceedings or by any suitable action or proceeding at law or otherwise, without being liable to indictment, prosecution or damages therefor, and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold, possess and enjoy the Premises again.

(b) If this Lease is terminated and if Landlord shall re-enter the Premises as aforesaid, or in the event of the termination of this Lease, and of re-entry, by or under any proceeding or action or any provision of law by reason of any Event of Default hereunder on the part of Tenant, Tenant covenants and agrees forthwith that:

(i) The Minimum Rent and all additional rent shall become due thereupon and be paid by Tenant up to the time of such termination, together with such amounts as Landlord may incur for legal expenses, attorneys' fees and disbursements, brokerage, and/or for putting the Premises in good order, and/or for preparing the same for reletting;

(ii) Landlord may relet the Premises or any part or parts thereof, either in the name of Landlord or otherwise (but shall have no obligation to do so), for a term or terms which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the Term, and may grant concessions or free rent; and

(iii) Tenant or the legal representatives of Tenant shall also pay Landlord, as liquidated damages for the failure of Tenant to observe and perform Tenant's covenants herein contained, amounts equal to the Minimum Rent and all additional rent which would have been payable by Tenant had this Lease not been so terminated, or had Landlord not so re-entered the Premises, such payments to be made upon the due dates therefor specified herein following such termination or re-entry and continuing until the expiration date of this Lease; *provided, however*, that if Landlord shall relet the Premises, Landlord shall credit Tenant, up to the amount due from Tenant, with the net rent received by Landlord for such reletting after deducting from the first installments of such rent received the expenses incurred or paid by Landlord in terminating this Lease or in re-entering the Premises and in securing possession thereof, as well as the expenses of reletting, including legal expenses, attorneys' fees and disbursements, advertising expenses, brokerage commissions, alteration costs and other expenses incurred for keeping the Premises in good order or for preparing the same for reletting. Any suit brought to collect the amount of the aforesaid damages for any month or months shall not prejudice in any way the rights of Landlord to collect the damages for any subsequent month or months by a similar proceeding. Nothing contained herein shall be deemed to require Landlord to postpone suit until the date when the Term would have expired if it had not been so terminated under or pursuant to Section 17.2, or under any provision of law, or had Landlord not re-entered the Premises.

(c) The terms "re-enter" and "re-entry," as used herein, are not limited to their technical legal meanings.

17.4 Liquidated Damages.

(a) Landlord may elect, as an alternative to any further damages and charges provided for in Section 17.3(b)(iii) thereafter accruing, to have Tenant pay the liquidated

damages provided for below, which election may be made by notice given to Tenant at any time after the termination of this Lease under or pursuant to Section 17.2, above, and whether or not Landlord shall have collected any damages as hereinabove provided in Section 17.3. Upon such notice, Tenant shall promptly pay to Landlord, as liquidated damages, in addition to any damages collected or due from Tenant from any period prior to such notice, such a sum as at the time of such notice represents the amount of the excess, if any, of (i) the present value, using a discount rate of 4%, of the Minimum Rent, Percentage Rent and other Rent which would have been payable by Tenant under this Lease for the remainder of the Term if Tenant had fulfilled all of its obligations hereunder (the amount of such Percentage Rent and all other Rent (other than Minimum Rent) shall be based on the amount of Percentage Rent and all other Rent payable by Tenant for the twelve (12) month period immediately preceding the termination of this Lease), over and above (ii) the present value, using a discount rate of 4%, of the Minimum Rent, Percentage Rent and other Rent that would be received by Landlord if the Premises were relet at the time of such notice for the remainder of the Term at the fair rental value thereof at the time of such notice.

(b) For the purposes of this Article, if Landlord elects to require Tenant to pay liquidated damages in accordance with this Section 17.4, if the Premises or any part thereof shall have been relet by Landlord for the unexpired portion of the Term, or any part thereof before presentation of proof of such damages to any court, commission or tribunal, the amount of rent received upon such reletting shall be prima facie evidence of the fair rental value of the Premises, or part thereof, so relet during the term of such reletting.

17.5 Rights In The Event of Tenant's Bankruptcy. Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain, in proceedings for the termination of this Lease by reason of bankruptcy or insolvency, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

17.6 Waiver of Redemption; Waiver of Jury Trial.

(a) Tenant, for itself and any and all persons claiming through or under Tenant, including its creditors, upon the termination of this Lease or expiration of the Term in accordance with the terms hereof, or in the event of entry of judgment for the recovery of the possession of the Premises in any action or proceeding, or if Landlord shall re-enter the Premises by process of law or otherwise, hereby waives by right of redemption or petition provided by any statute, law or decision now or hereafter in force, and does hereby waive, surrender and give up all rights or privileges which it or they may or might have under and by reason of any present or future law or decision, to redeem the Premises or for a continuation of this Lease for the Term of this Lease after having been dispossessed or ejected therefrom by process of law, or otherwise.

(b) 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 the Lease, the relationship of Landlord and Tenant and Tenant's use or occupancy of the Premises or any other claim (other than claim for personal injuries or property damage). It is further mutually agreed that if Landlord commences any summary proceedings to evict Tenant or otherwise regain possession for nonpayment of Rent or for Tenant holding over after the expiration or earlier termination of this Lease, then Tenant shall not interpose and does hereby waive the right to interpose any counterclaim of whatever nature or description in such proceeding.

17.7 Additional Rights of Landlord.

(a) In the event of a breach or threatened breach by Tenant of any of its obligations under this Lease, Landlord shall also have the right to obtain an injunction or other equitable relief.

(b) If Tenant shall default in the observance or performance of any term or covenant on Tenant's part to be observed or performed under or by virtue of any of the terms or provisions in any Article of this Lease, Landlord may upon ten (10) days' written notice to Tenant, or in the event of an emergency, immediately, perform the same for the account of Tenant. If Landlord shall make any expenditures or incur any obligations for the payment of

money in connection therewith including, but not limited to, reasonable attorneys' fees and charges in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred with interest and costs shall be deemed to be additional rent hereunder and shall be paid by Tenant to Landlord within five (5) business days of rendition of any bill or statement to Tenant therefor.

(c) Tenant acknowledges that substantial harm shall be caused to Landlord and to the other tenants of the Building, and the actual damage caused shall be impossible to ascertain, if Tenant shall (x) fail to immediately correct any unsafe condition in or about the Premises after receipt by Tenant of a Safety Violation Notice, or (y) default in the observance or performance of any term or covenant on Tenant's part to be observed or performed under or by virtue of Article 25 (captioned "Window Displays and Signs") and/or Article 27 (captioned "Rules and Regulations") and/or Schedule B (captioned "Rules and Regulations") of this Lease. Therefore, in addition to all other rights and remedies available to Landlord under this Lease or at law or at equity, Landlord at its sole option may charge Tenant the following fees, as additional rent, upon the occurrence of the following: (i) for each day that Tenant shall fail to immediately correct any unsafe condition in or about the Premises after receipt by Tenant of a Safety Violation Notice, a fee in the amount of \$1,000.00 per day for each day that such failure to correct continues, (ii) upon the second (2nd) and each subsequent violation of Article 25, a fee in the amount of \$1,000.00 per day for each day that such violation continues, and (iii) upon the second (2nd) and each subsequent violation of Article 27 and/or the Rules and Regulations, a fee in the amount of \$1,000.00 per occurrence; which fees shall constitute liquidated damages (and not penalties) and shall be payable within ten (10) days after demand therefor.

(d) The remedies to which Landlord may resort under this Lease are cumulative and are not intended to be exclusive of any other remedies to which Landlord may be lawfully entitled at any time and Landlord may invoke any remedies allowed at law or in equity as if specific remedies were not provided for herein.

ARTICLE 18

END OF TERM; HOLDOVER

18.1 End of Term. Upon the Expiration Date or upon the effectiveness of any earlier termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, broom clean, in good order and in their condition as of the Commencement Date, ordinary wear and tear and Tenant's Work that Tenant is permitted, pursuant to Article 6 hereof, to allow to remain in the Premises excepted, and Tenant shall remove from the Premises all of Tenant's Property and any Tenant's Work required by Landlord to be removed pursuant to Article 6 hereof. Tenant's obligation to observe or perform this covenant shall survive the expiration or earlier termination of this Lease. If the last day of the Term falls on any day other than a business day this Lease shall expire on the business day immediately preceding.

18.2 Holdover.

18.2.1 If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease without Landlord's consent, then, at Landlord's election, Tenant's occupancy shall be a month-to-month tenancy at (i) Minimum Rent equal to two hundred percent (200%) of the Minimum Rent payable under this Lease for the last full month prior to the date of such expiration and (ii) Percentage Rent equal to two hundred percent (200%) of the Percentage Rent payable under this Lease for the last full month prior to the date of such expiration; *provided, however*, in no event shall the Minimum Rent for any such period be less than an amount equal to the then market rental value for the Premises for such period as shall be established by Landlord giving notice to Tenant of Landlord's good faith estimate of such market rental value. Except as provided in the preceding sentence, the month-to-month tenancy shall be on the terms and conditions of this Lease. Landlord's acceptance of Rent after such holding over shall not result in any other tenancy or in a renewal of the original Term hereof. Anything to the contrary in the foregoing notwithstanding, the acceptance of any Rent paid by Tenant pursuant to this Article 18 shall not preclude Landlord from commencing and prosecuting a holdover or summary eviction proceeding, and the preceding sentence shall be deemed to be an "agreement expressly providing otherwise" within the meaning of Section 232-c of the Real Property Law of the State of New York.

18.2.2 If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease with Landlord's consent, then, Tenant may remain in possession of the Premises on a month-to-month basis on all of the terms and conditions of this Lease, except that (i) the annual Minimum Rent shall be increased on the day immediately following the Expiration Date and on each anniversary thereof by multiplying the Minimum Rent then payable during the immediately preceding year by 105%, and (ii) the annual Percentage Rent Base Amount shall be increased on the day immediately following the Expiration Date and on each anniversary thereof by multiplying the Percentage Rent Base Amount then applicable during the immediately preceding year by 105%. Landlord's acceptance of Rent after such holding over shall not result in any tenancy (other than the month-to-month tenancy provided for herein) or in a renewal of the original Term hereof. Either party may terminate the tenancy described in this Section 18.2.2 by delivering at least thirty (30) days prior written notice thereof to the other party.

ARTICLE 19

NO REPRESENTATIONS BY LANDLORD

Landlord has made no representations, warranties or promises, expressed or implied, with respect to the Building or Premises unless expressly set forth herein. The execution and delivery of this Lease by Tenant shall be conclusive evidence, as against Tenant, that Tenant accepts the Premises "as is" on the date Tenant shall take occupancy or possession of the Premises as set forth in Section 3.1 of this Lease.

ARTICLE 20

COVENANT OF QUIET ENJOYMENT

Tenant, upon payment of the Rent and observing and performing the covenants and conditions herein contained, all as herein provided, shall and may peacefully and quietly have, hold and enjoy the Premises for the Term aforesaid, free from disturbance by any party claiming by, through or under Landlord, subject, however, to termination of the Term hereof by Landlord as herein provided, and subject also to the Permitted Exceptions and to any Superior Leases and Superior Mortgages and other matters to which Landlord's interest in the Premises may from time to time be subject and subordinate.

ARTICLE 21

MARKETING FUND

21.1 Marketing and Advertising Fund.

21.1.1 Landlord or Landlord's agent may operate a marketing and advertising fund (the "**Marketing Fund**") for the purpose of advertising and promoting the Building (and funding Landlord's administrative charges in connection therewith).

21.1.2 Tenant agrees to participate to the fullest extent with the advertising and promotional programs as outlined by Landlord. In addition, commencing on the Commencement Date and throughout the Term, Tenant agrees to pay to the Marketing Fund the amount (the "**Advertising and Promotion Contribution**") specified in Section 1.1 of this Lease, in equal monthly installments, increasing annually on the first day of each Lease Year thereafter during the Term by an amount equal to the Advertising and Promotion Contribution then payable, multiplied by three percent (3%).

21.2 Landlord's Contribution to Marketing Fund. Landlord shall make a contribution from time to time to the Marketing Fund, in an aggregate annual amount equal to twenty percent (20%) of the total advertising and promotion contributions made by all tenants in the Building. Landlord's contribution may be paid in whole or in part to the Marketing Fund, or at Landlord's option, to a Marketing Director and/or other person or persons under Landlord's exclusive control to help organize and implement advertising and promotional programs to be paid for from the Marketing Fund.

21.3 Trade Names, Logos and Advertising Material. In advertising Tenant's business in the Premises and/or the Building, Landlord shall have the right to use Tenant's logo and the Trade Name. In addition, within five (5) days of Landlord's request, Tenant shall provide Landlord with five (5) original copies of Tenant's most recent advertising materials for the use by Landlord in advertising Tenant's business in the Premises and/or the Building. In advertising its business in the Premises and/or the Building, the Trade Name shall be the only trade name that Tenant uses, and Tenant shall not have the right to use the names Grand Central, Grand Central Terminal, or variations of MTA or Metro-North or the names of their Affiliates and subsidiaries, and logos of each of the aforesaid (such names and logos collectively defined herein as the "**Protected Trademarks**"), and Tenant shall not sell or provide any goods, wares, merchandise or services bearing the Protected Trademarks without the prior written consent of Landlord. Tenant acknowledges that it has no rights, trademark or otherwise, or other interest in the Protected Trademarks, which rights with respect to Landlord and Tenant belong exclusively to Landlord. To the extent that Landlord consents to Tenant's use of the Protected Trademarks in connection with any product, service, advertising or promotion thereof or therefor, the grant of such rights shall automatically terminate at the time Tenant ceases to operate its business in the Premises for any reason.

21.4 Tenant's Association. Landlord may elect to establish a tenant's association or other organization with respect to the Building and/or the Premises in which Landlord may require that all or certain tenants in the Building become members. If Landlord shall elect to establish any such association or organization, then, upon written notice by Landlord, Tenant shall be deemed to become a member thereof and shall participate fully therein. Landlord shall have the right to prescribe the function, composition and governance of any such association or organization and the respective rights and obligations of members thereof; *provided, however*, that membership in such association or organization shall not materially adversely either increase the obligations or diminish the rights of Tenant under this Lease.

ARTICLE 22

NO WAIVER

22.1 No Acceptance of Surrender. No act or thing done by Landlord, Landlord's managing agent (if any) or their respective employees, agents or contractors during the Term shall constitute an eviction by Landlord nor be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless expressly stated in a writing signed by Landlord. No employee of Landlord or its managing agent (if any) shall have any power to accept the keys of the Premises prior to the expiration or earlier termination of this Lease. The delivery of keys by Tenant to, or the acceptance of keys by, Landlord or its managing agent shall not operate as a termination of this Lease and shall not be deemed to be a surrender of the Premises.

22.2 No Waiver of Default. No provision of this Lease shall be deemed to have been waived by Landlord, unless such waiver shall be in a writing signed by Landlord. 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 now existing 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.

22.3 No Waiver by Receipt of Rent. 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 or any of Landlord's rights or remedies under this Lease. In Landlord's sole discretion, any monies accepted from Tenant after default may be designated by Landlord as payment for use and occupancy only and not as Rent. Any payment by Tenant (including by application of any Security Amount, Letter of Credit proceeds or other security held by Landlord) or receipt by Landlord of a lesser amount than the Rent herein stipulated may be applied to such items of Rent due and owing and in such order as Landlord (in its sole discretion) shall designate notwithstanding any request by Tenant to the contrary; and Tenant irrevocably waives any right to designate the items against which any such payments made by Tenant are to be credited. Any endorsement or statement on any check or any letter accompanying any check or payment as Rent shall not 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.

ARTICLE 23

INABILITY TO PERFORM, FORCE MAJEURE

This Lease and the obligation of Tenant to pay Rent hereunder and perform all of the other covenants and agreements hereunder on part of Tenant to be performed shall not be affected, impaired or excused because of Landlord's delay in performing or complying, or failure to perform or comply with, any of its obligations under this Lease or because Landlord is unable to supply or is delayed in supplying any service to be supplied by Landlord or is unable to make, or is delayed in making any repairs, additions, alterations, or decorations or is unable to supply or is delayed in supplying any services if Landlord is prevented or delayed from so doing by reason of any cause beyond Landlord's reasonable control including, but not limited to, strike or labor troubles, governmental preemption in connection with a national emergency, any rule, order or regulation of any department or subdivision thereof of any government agency, conditions of supply and demand which have been or are affected by act of God, civil commotion, war or other emergency, or fire, casualty or other acts of God and Landlord shall have no liability to Tenant as a result of any such delay or failure.

ARTICLE 24

NOTICES

Any bill, statement, notice, consent or other communication (each, a "Notice") which either party may desire or be required to give to the other pursuant to this Lease shall be in writing, delivered to Landlord at its mailing address specified in Section 1.1(a), to Tenant prior to the Commencement Date at the address specified at the beginning of this Lease, and to Tenant on or after the Commencement Date at its mailing address specified in Section 1.1(b), or at such other address as such party shall designate by Notice given pursuant to this Article 24 and shall be deemed sufficiently given or rendered if (i) delivered personally, or (ii) sent by reputable overnight courier service with receipt requested, or (iii) sent by registered or certified mail, postage prepaid, return receipt requested, or (iv) sent by telecopy with the original delivered by any manner permitted under clauses (i), (ii) or (iii) above. Copies of any Notice by Tenant to Landlord shall be sent to (x) Metro-North Commuter Railroad Company, 347 Madison Avenue, New York, New York 10017, Attention: General Counsel, (facsimile number 212-697-9079), (y) Metropolitan Transportation Authority, 341 Madison Avenue, New York, New York 10017, Attention: Director of Grand Central Terminal Development, (facsimile number 212-878-0108), and (z) Jones Lang LaSalle Americas Inc., 25 Vanderbilt Avenue, Hall 3A, New York, New York 10017, Attention: General Manager, (facsimile number 212-340-2366), or at any such other address as Landlord shall designate by Notice pursuant to this Article 24. Notices shall be deemed to have been given or served (a) on the date delivered or on the date delivery is refused, if delivered personally, (b) on the business day after the same is sent, if sent by reputable overnight courier service for next business day delivery, (c) three (3) days following the date mailed, if mailed as provided in this Article 24, or (d) upon receipt of the telecopy, if sent by telecopy; *provided, however*, that a Notice to Landlord shall not be deemed to have been given or served until a copy of such Notice also shall have been given in the manner provided herein to each party entitled thereto pursuant to this Article 24.

ARTICLE 25

WINDOW DISPLAYS AND SIGNS

The appearance of the Premises, including, without limitation, advertising signs or displays of any nature, will be in good taste, in compliance with the Rules and Regulations and Landlord's Construction Requirements, as applicable, and subject to the prior written consent of Landlord. Subject to Landlord's prior approval of size, design, location and manner of installation, Tenant shall install temporary "coming soon" signage on the glass of the Premises storefront (or if the Premises does not have a glass storefront, in such location approved by Landlord); which signage shall utilize the signage systems and be in compliance with the standards then required by Landlord. Tenant shall maintain such signage during the period (if any) from the Commencement Date through the date Tenant opens for business. Tenant shall not (i) place, or allow to be placed, upon the windows, doors, or any part of the exterior of the walls, floors, ceilings, entryways and doorways of the Premises (or upon the interior of any exterior windows or doors or otherwise within sight from outside the Premises) any signs,

advertisements, designs, logos, pictures, graphics, projected images, decorations, notices or other lettering without the prior written consent of Landlord; (ii) place or maintain any merchandise or other articles in any vestibule or entry of the Premises without the prior written consent of Landlord; or (iii) use any signs or notices stating that there is a so-called “fire,” “bankruptcy,” “auction,” “going-out-of-business sale” or similar sale without the prior written consent of Landlord (Tenant acknowledges that such signage may, in any event, be subject to the special provisions of Legal Requirements). In the event Landlord, in its reasonable judgment, objects to any sign or display for reasons of aesthetics, good taste or because same are in violation of clauses (i) or (iii) above, Tenant shall remove same within twenty-four (24) hours after notice from Landlord. Under no circumstances shall any hand lettered signs be placed in or on windows, doors or any part of the exterior of the Premises. Tenant will not conduct or solicit business or distribute advertising or promotional material in the public areas of the Building, nor use nor permit the use of advertising media, such as loud speakers, public address systems, sound amplifiers, radio or broadcasts within the public areas of the Building, or within the Premises, so as to be audible in the public areas of the Building or elsewhere outside the Premises in a manner which would interfere with the use and operation of the Building by the other tenants therein. Tenant hereby acknowledges and agrees that any breach by Tenant of the provisions of this Article 25 shall be a material breach of the Lease and shall cause substantial harm to Landlord and to the other tenants of the Building. If Tenant shall default in the observance or performance of any term or covenant on Tenant’s part to be observed or performed under this Article, Landlord shall have the remedies available pursuant to Section 17.7(c) in addition to all other rights and remedies available to Landlord under this Lease or at law or at equity.

ARTICLE 26

LEASING AGENT

Landlord and Tenant each warrants and represents to the other that, other than Williams Jackson Ewing, Inc. (“**Leasing Agent**”) **[IF APPLICABLE:** and _____ (“**Tenant’s Broker**”)], it has dealt with no broker, finder or similar agent who might be entitled to claim a fee or commission in any of the negotiations which preceded this Lease or in the procuring of the same. Each party shall indemnify, defend and hold the other harmless from and against any and all claims for commission, fee or other compensation by any person, including, without limitation, reasonable attorneys’ fees and charges, arising out of a breach of the foregoing representation. The provisions of this Article shall survive the expiration or earlier termination of this Lease. Landlord represents that there is no commission due to Leasing Agent in connection with this Lease. **[IF THERE IS A TENANT’S BROKER:** Tenant covenants and agrees that Tenant shall be solely responsible for the payment of any commission or other compensation due to the Tenant’s Broker in connection with this Lease and Tenant shall indemnify, defend and hold harmless Landlord from and against any and all claims for commission, fee or other compensation by the Tenant’s Broker, including, without limitation, reasonable attorneys’ fees and charges.]

ARTICLE 27

RULES AND REGULATIONS

Tenant and Tenant’s servants, employees, agents, visitors and licensees shall observe faithfully, and comply strictly with the rules and regulations annexed to this Lease as Schedule B and such other and further reasonable rules and regulations as Landlord may promulgate from time to time (collectively, “**Rules and Regulations**”) and Landlord may promulgate any such Rules or Regulations in response to circumstances or facts peculiar to the nature of Tenant’s character, use and occupancy. Notification of any additional rules or regulations shall be given in such manner as Landlord may elect. Nothing in this Lease shall be construed to impose upon Landlord any duty or obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease, as against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees. If Tenant shall default in the observance or performance of any term or covenant on Tenant’s part to be observed or performed under this Article or Schedule B hereof, Landlord shall have the remedies available pursuant to Section 17.7(c) in addition to all other rights and remedies available to Landlord under this Lease or at law or at equity.

ARTICLE 28

PARTIES BOUND

28.1 Successors and Assigns. The terms of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 14 shall operate to vest any right in any successor or assignee of Tenant, and the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 17.

28.2 Transfer of Landlord's Interest. The term "Landlord" shall mean only the owner at the time in question of the then present landlord's interest in the Building or portion thereof in which the Premises are located, and in the event of a transfer or transfers (by sale, transfer, assignment, sublease, lease, operation of law or otherwise) of such leasehold estate (or portion thereof) held by the present landlord, the transferor shall be and hereby is (to the extent of the interest or portion of the leasehold estate transferred, assigned, leased or subleased) automatically and entirely released and discharged, from and after the date of such transfer, assignment, leasing or subleasing, of all liability in respect of the performance of any of the terms of this Lease on the part of Landlord thereafter to be performed; and the transferee or sublessee shall be deemed to have assumed and agreed to perform, subject to the limitations of this Section, all of the terms of this Lease on the part of Landlord to be performed during such period of ownership, which terms shall be deemed to "run with the land," it being intended that Landlord's obligations hereunder shall be binding on Landlord, its successors and assigns, only during and in respect of their respective successive periods of ownership.

28.3 Limitation of Landlord's Liability. Tenant shall look solely to Landlord's estate and interest in the Building for the satisfaction of any right of Tenant for the collection of a judgment or other judicial process or arbitration award requiring the payment of money by Landlord and no other property or assets of Landlord, Landlord's agents, incorporators, subscribers to the capital stock, shareholders, officers, directors, partners, joint venturers, principals (disclosed or undisclosed) or Affiliates shall be subject to levy, lien, execution, attachment, or other enforcement procedure for the satisfaction of Tenant's rights and remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder or under law, or Tenant's use and occupancy of the Premises or any other liability of Landlord to Tenant.

28.4 Lease Not Binding Until Executed by Landlord and Tenant. The submission by Landlord to Tenant of this Lease in draft form shall be deemed submission solely for Tenant's consideration and not for acceptance and execution. Such submission shall have no binding force and effect, shall not constitute an option for the leasing of the Premises, and shall not confer any rights or impose any obligations upon either party. The submission by Landlord of this Lease for execution by Tenant and the actual execution and delivery thereof by Tenant to Landlord shall similarly have no binding force and effect on Landlord unless and until Landlord shall have executed this Lease and a counterpart thereof shall have been delivered to Tenant.

ARTICLE 29

MISCELLANEOUS; TERMINATION FOR CORPORATE PURPOSES

29.1 Integration; Severability; Construction. No change or modification of any of the covenants, terms or provisions hereof shall be valid unless in writing and signed by the parties hereto. There are no understandings or agreements of any kind between the parties hereto, verbal or otherwise, other than as set forth in this Lease. All additions, changes or deletions herein were made prior to execution by either party, except that additions, changes or deletions made after execution by one party and before execution by the other shall be marginally initialed by both parties. The provisions of this Lease are severable. Words of any gender used in this Lease shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

29.2 Termination for Corporate Purposes. Tenant hereby acknowledges that Landlord's primary purpose and obligation is to operate the railroad facilities under Landlord's jurisdiction (the "**Railroad**"). The rights and privileges hereby granted shall be exercised by Tenant subject at all times to the prior and paramount right of Landlord, in its absolute discretion, to accommodate the operation of the Railroad according to the requirements and

exigencies of the public interest and the business of Landlord. It is understood and agreed between the parties hereto that Landlord shall have the right, exercisable at its sole discretion, to terminate this Lease at any time in the event that Landlord requires the Premises or any part thereof for transportation or public service purposes, for construction, demolition, sale or lease of that portion of the Building of which the Premises constitute a part, or otherwise for its corporate purposes by giving to Tenant one hundred eighty (180) days' prior written notice (a "**Corporate Purposes Termination Notice**") of its intention so to do. If the Corporate Purposes Termination Notice is given by Landlord, then effective on the date that is one hundred eighty (180) days subsequent thereto, the Lease shall be terminated, and Tenant shall surrender the Premises and every part thereof to Landlord in the condition required by Article 18 hereof and otherwise in accordance with this Lease, and in case of Tenant's failure to do so, Landlord shall be entitled to damages in accordance with Article 18 hereof, and may remove Tenant from the Premises by summary proceedings or may otherwise remove Tenant therefrom as Landlord shall deem advisable. Landlord shall have no obligation to compensate Tenant if Landlord exercises its right contained in this Section. The foregoing shall not be deemed to limit the liability of Landlord or Tenant hereunder for the period up to and including the termination of this Lease in accordance with this Section, or any liability for obligations that expressly survive the termination hereof.

29.3 Radius Clause. In recognition of the fact that this Lease provides for a Percentage Rent based on Gross Sales made by Tenant in or from the Premises, Tenant agrees that Tenant, or any of its principals, principal shareholders, or any Affiliate or subsidiary of Tenant, directly or indirectly shall not operate, manage or have any interest in any other competing store or business for the sale of merchandise similar to that permitted under Section 5.1 of this Lease (including, without limitation, a department or concession in a store managed or operated by others), within the Restricted Area, and in the event of a breach of the provisions of this Section 29.3, then, in addition to any and all other rights and remedies to which Landlord may be entitled in the event of a default of Tenant under the terms of this Lease, Tenant shall include fifty percent (50%) of the Gross Sales of such other store or business in the Gross Sales transacted in the Premises for the purpose of computing Percentage Rent due hereunder, as though said sales had actually been made from the Premises. Any such store or business owned or leased by Tenant and existing as of the date of this Lease shall be excluded from the provisions of this Section; *provided, however*, there is no increase in the size or change in the manner of operation of such other store or business. For purposes of this Lease, the term "**Affiliate**" means as to any designated person or entity, any other person or entity which controls, is controlled by, or is under common control with, such designated person or entity. Solely for the purposes of this Section 29.3, the term "**control**" (and with correlative meaning, "**controlled by**" and "**under common control with**") means ownership or voting control, directly or indirectly, of twenty percent (20%) or more of the voting stock, partnership interests or other beneficial ownership interests of the entity in question.

29.4 Adjacent Excavation and Shoring. If an excavation shall be made upon land adjacent to the Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Premises for the purpose of doing such work as said person shall deem necessary to preserve the walls or any other part of the Building from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement of Rent.

29.5 Marginal Notes; Captions; and the Table of Contents. Marginal notes, captions, headings and the Table of Contents used herein are placed for reading convenience and shall not have any other meaning, implication or purpose, legal or otherwise, and shall not be deemed to limit or describe the scope, intent or applicability of any provision hereof.

29.6 Nondiscrimination. Tenant hereby agrees that (a) no person on the ground of race, color, sex, national origin or physical disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises, (b) in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the ground of race, color, sex, national origin or physical disability shall be excluded from participation in, denied the benefits of, or be otherwise so subjected to discrimination, (c) Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally

Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and with Sections 291-299 of the Executive Law and with the Civil Rights Law of the State of New York, as said laws and regulations may be amended, and with any other applicable laws and regulations.

29.7 Vaults. No vaults or vault space not within the property line of the Building is leased hereunder. Landlord makes no representation as to the location of the property line of the Building. All vaults and vault space and all space not within the property line of the Building, which Tenant may be permitted to use and/or occupy, is to be used and/or occupied under a revocable license, and if any such license be revoked, or if the amount of such space be diminished or required by any federal, state, municipal authority or public utility, Landlord shall not be subject to any liability nor shall Tenant be entitled to any compensation or diminution or abatement of rent, nor shall such revocation, diminution or requisition be deemed constructive or actual eviction. Any fee, tax, or license charge of municipal authorities for such vault or space shall be paid by Tenant.

29.8 No Partnership. It is understood and agreed that neither this Lease, nor any of the agreements herein contained is intended, nor shall the same be construed, so as to create a co-partnership by and between Landlord and Tenant, or to make Landlord and Tenant joint venturers, or to make Landlord in any way liable or responsible for the debts or losses of Tenant.

29.9 Landlord Authorized to Act Through Others. Tenant acknowledges that in any case in which Landlord is permitted or required to act under this Lease, Landlord may act through its agents or other designees of Landlord.

29.10 Estoppels. Each party agrees, at any time and from time to time, on or prior to the fifteenth (15th) day following a written request by the other party, to execute and deliver to the other a statement 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), certifying the Commencement Date, the Rent Commencement Date, the Expiration Date and the dates to which the Minimum Rent, Percentage Rent and additional rent have been paid, stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Lease, and, if so, specifying each such default of which the signer shall have knowledge and stating whether or not, to the best knowledge of the signer, any event has occurred which with the giving of notice or passage of time, or both, would constitute such a default, and, if so, specifying each such event, and certifying whether there are any then permitted claims or defenses under the Lease, it being intended that any such statement delivered pursuant hereto shall be deemed a representation and warranty to be relied upon by the party requesting the certificate and by others with whom such party may be dealing, regardless of independent investigation.

29.11 Tenant's Federal Tax Identification Number. Tenant represents and warrants to Landlord that Tenant's true and correct Federal Tax Identification Number is set forth in Section 1.1 above.

29.12 Statements. All bills, invoices or statements rendered to Tenant pursuant to this Lease shall be deemed binding and conclusive if, within six (6) months of receipt of the same, Tenant fails to notify Landlord in writing of its intention to dispute such bill, invoice or statement.

29.13 Choice of Law. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

29.14 Forum Selection. Tenant, to the full extent permitted by law, knowingly, intentionally and voluntarily, with and upon the advice of competent counsel, (i) submits to personal jurisdiction in the State of New York over any suit, action or proceeding by any person arising from or relating to this Lease, (ii) agrees that any such action, suit or proceeding may be brought in any state or federal court of competent jurisdiction sitting in New York County, New York, (iii) submits to the jurisdiction of such courts, and (iv) to the fullest extent permitted by law, agrees that it will not bring any action, suit or proceeding in any other forum (but nothing herein shall affect the right of Landlord to bring any action, suit or proceeding in any other forum).

29.15 Agents, Employees and Contractors. Wherever this Lease provides that either party shall be liable for the negligence or willful misconduct of its agents, employees or contractors, such provision shall be deemed to be applicable only to the extent that such agents, employees or contractors were acting within the scope of their employment or engagement.

ARTICLE 30

CONSENTS AND APPROVALS

30.1 Consent Not a Waiver. It is understood and agreed that the granting of any consent or approval by Landlord to Tenant to perform any act of Tenant requiring Landlord's consent or approval under the terms of this Lease, or the failure on the part of Landlord to object to any such action taken by Tenant without Landlord's consent or approval, shall not be deemed a waiver by Landlord of its right to require such consent or approval for any further similar act by Tenant, and Tenant hereby expressly covenants and warrants that as to all matters requiring Landlord's consent or approval under the terms of this Lease Tenant shall secure such consent or approval for each and every happening of the event requiring such consent or approval, and shall not claim any waiver on the part of Landlord of the requirement to secure such consent or approval.

30.2 Consents Not To Be Unreasonably Delayed. Anywhere in this Lease where either Landlord or Tenant has agreed not unreasonably to withhold its consent, each party also agrees that its respective consent shall not be unreasonably delayed.

30.3 Landlord Not Liable for Money Damages. Whenever in this Lease Landlord's consent or approval is required and this Lease provides that Landlord's consent or approval shall not be unreasonably withheld and Landlord shall refuse such consent or approval, or in any instance in which Landlord shall delay its consent or approval, Tenant shall in no event be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord unreasonably withheld or unreasonably delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, by specific performance, injunction or declaratory judgment, and if Tenant is the prevailing party in any such action or proceeding, no further evidence of Landlord's consent shall be required, but Landlord shall, promptly upon request, confirm that such consent has been given.

ARTICLE 31

SECURITY

31.1 Security. Simultaneously with the execution of this Lease by Tenant, Tenant shall deliver to Landlord, as a security deposit for the full and faithful performance and observance by Tenant of the covenants, agreements, terms, provisions and conditions of this Lease, cash in an amount equal to the Security Amount specified in Section 1.1 hereof, as increased in accordance herewith. The Security Amount shall be increased as the Minimum Rent increases so that at all times the Security Amount shall be equal to [_____] (___) months of the then current Minimum Rent. Tenant shall deliver to Landlord the additional security required to satisfy the requirements of this Section no later than forty-five (45) days prior to the commencement of each respective year of this Lease for which the Security Amount is to be increased.

31.2 Event of Default. If an Event of Default shall occur, then Landlord may use, apply or retain all or any portion of the Security Amount for the payment of any Rent and/or any other sum as to which Tenant is in default and/or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the covenants, agreements, terms, provisions and conditions of this Lease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency occurred before or after summary proceedings or other reentry by Landlord. If Landlord shall elect to so use, apply or retain all or any portion of the Security Amount in accordance with the provisions of this Section 31.2, then Tenant shall, upon demand, immediately deposit with Landlord an amount equal to the amount so used, applied or retained. Landlord shall not be required to resort to or exhaust or apply its remedies against the Security Amount prior to having

recourse to Tenant, any Guarantor, and/or any other security, collateral or other guaranty held by Landlord, or prior to exercising any right or remedy, and recourse by Landlord to any one of them, or the exercise of any right or remedy, shall not affect Landlord's right to pursue any other right or remedy or Landlord's rights to proceed against the others.

31.3 End of Term. In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants, agreements and conditions of this Lease, the Security Amount shall be returned to Tenant within thirty (30) days after the later to occur of (a) the Expiration Date, and (b) the delivery of possession of the entire Premises to Landlord in the condition required under this Lease.

31.4 Landlord Right to Transfer. In the event of any assignment or transfer or conveyance of Landlord's interest in this Lease, Landlord shall have the right to transfer the Security Amount to the grantee or transferee and, upon the grantee's or transferee's acknowledgment of receipt thereof, Landlord shall thereupon be released by Tenant from all liability for the return of such Security Amount. Tenant agrees to look solely to Landlord's successor for the return of said Security Amount; and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Amount to a new Landlord. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. Landlord shall not be required to deposit the Security Amount in an interest bearing account. If Landlord shall maintain the Security Amount in an interest bearing account, then all interest earned thereon shall be added to and form a part of the Security Amount deposited with Landlord hereunder. Landlord shall be entitled to deduct from the Security Amount the maximum administrative fees permitted by law.

31.5 Guaranty. In addition to the security deposit required to be maintained pursuant to this Article 31, and as a material inducement to Landlord entering into this Lease, Tenant shall deliver to Landlord simultaneously with Tenant's execution of this Lease, a guaranty (the "**Guaranty**") of this Lease by Guarantor in the form and substance annexed hereto and made a part hereof as Schedule D.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

LANDLORD:

**METROPOLITAN TRANSPORTATION
AUTHORITY,
acting by and through
METRO-NORTH COMMUTER RAILROAD
COMPANY**

By: _____
Name: Jeffrey Rosen
Title: Director of Real Estate

TENANT:

By: _____
Name: _____
Title: _____

Attachment 1

Minimum Rent

The Minimum Rent payable hereunder shall be as follows:

PERIOD	ANNUAL MINIMUM RENT
Commencement Date through First Lease Year	\$
Lease Year 2	\$
Lease Year 3	\$
Lease Year 4	\$
Lease Year 5	\$
Lease Year 6	\$
Lease Year 7	\$
Lease Year 8	\$
Lease Year 9	\$
Lease Year 10	\$

Attachment 2

[TO BE DELETED IF NATURAL BREAKPOINT]

Percentage Rent Base Amount

The Percentage Rent Base Amount shall be as follows:

LEASE YEAR	ANNUAL PERCENTAGE RENT BASE AMOUNT
1	\$
2	\$
3	\$
4	\$
5	\$
6	\$
7	\$
8	\$
9	\$
10	\$

Attachment 3

Wire Transfer Instructions for Rent Payments

The wire transfer instructions for the payment of Rent under this Lease are as follow:

Beneficiary Information: Metropolitan Transportation Authority
25 Vanderbilt Avenue, Hall 3A
New York, New York 10017

Account Number: 777-306026

ABA Number: 021000021

Swift Code: CHASUS33

Upon the completion of a wire transfer, Tenant shall contact Landlord by e-mail at GCTPayments@am.jll.com or by telephone at (212)340-2345 or as otherwise directed by Landlord, with the following information:

- (1) the confirmation number of the wire transfer;
- (2) the amount of the wire transfer; and
- (3) the date of the wire transfer.

Schedule A

Premises Floor Plan

Note: This floor plan is annexed to and made a part of this Lease solely to indicate the Premises by outlining and/or diagonal marking. This diagram is an approximate lease plan of the Building. All measures, dimensions and distances are not to scale. The depiction herein does not constitute a warranty or representation of any kind.

Schedule B

Rules and Regulations

1. The sidewalks, driveways, entrances, passages, courts, lobbies, esplanade areas, plazas, elevators, escalators, stairways, vestibules, corridors, halls and other public portions of the Building and surrounding the Building (“**Public Areas**”) shall not be obstructed or encumbered by any tenant or used for any purpose other than ingress and egress to and from its premises, and no tenant shall permit any of its employees, agents, licensees or invitees to congregate or loiter in any of the Public Areas or on the front, roof or any part of the Building used in common by other occupants of the Building. No tenant shall invite to, or permit to visit, its premises persons in such numbers or under such conditions as may interfere with the use and enjoyment by others of the Public Areas. The Public Areas shall not be used by any tenant, or the employees, agents, licensees or invitees of any tenant, for solicitations, distributions of handbills or other advertising matter. Fire corridors, exits and stairways are for emergency use only, and they shall not be used for any other purposes by any tenant, or the employees, agents, licensees or invitees of any tenant; in the event a tenant obstructs any such fire corridors, exits or stairways, such tenant shall be liable for the payment of all fines and charges assessed against Landlord by reason of such obstruction. No doormat of any kind whatsoever shall be placed or left in any public hall or outside any entry door of any tenant’s premises. Tenants shall not place objects against glass partitions or doors or windows which would be unsightly from the passageways or corridors, or from the exterior of the Building, and will promptly remove the same upon notice from Landlord.
2. No awnings or other projections shall be attached to the exterior side of any walls of any tenant’s premises, and no curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with any window or door of any tenant’s premises without the prior written consent of Landlord. Such curtains, blinds, shades or screens must be of a quality, type, design and color, and attached in the manner, prescribed by Landlord’s Construction Requirements and approved by Landlord. Tenants shall have no right to remove or change shades, blinds or other window coverings within their premises without Landlord’s consent. In order that the Building can and will maintain a uniform and high quality appearance to those persons outside of its premises, each tenant shall (a) in areas where lighting is visible from the outside of its premises, use only lighting which has been previously approved by Landlord, and (b) in window areas, use only blinds which have previously been approved by Landlord, all as more particularly described in Landlord’s Construction Requirements.
3. All receiving and delivery of goods and merchandise and all removal of merchandise, supplies, equipment, garbage, trash, rubbish and refuse shall be made only by way of the areas provided therefor by Landlord and in accordance with procedures and at the hours specified, from time to time, by Landlord. Garbage, trash, rubbish and refuse shall be kept in a sanitary and adequate closed container so as not to be visible to the public.
4. Neither the sashes, sash doors, skylights or windows that reflect or admit light and air into the halls, passageways or other public areas in the Building nor the heating, ventilating and air conditioning vents and doors shall be covered or obstructed by any tenant, nor shall any bottles, parcels or other articles be placed on the window sills or on the peripheral heating enclosures.
5. No showcases or other articles shall be put by tenants in front of or affixed to any part of the exterior of the Building, nor placed in the Public Areas.
6. Tenants shall keep their premises, both interior and exterior, in clean and sanitary condition, including cleaning of floors, windows and lighting fixtures and will cause all dirt, rubbish and other refuse matter to be carefully collected and promptly disposed of in a manner satisfactory to Landlord. The removal of said dirt, rubbish and other refuse matter shall be at the expense of each tenant and each tenant shall employ only such cleaning, garbage and trash removal contractors as may be approved by Landlord.

7. No acids, vapors or other harmful materials shall be discharged, or permitted to be discharged, into the water lines, vents or flues of the Building. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were designed and constructed, and no sweepings, rubbish, rags, acids or other foreign substances shall be thrown or deposited therein. Nothing shall be swept or thrown into the Public Areas or other areas of the Building, or into or upon any heating or ventilating vents or registers or plumbing apparatus in the Building, or upon adjoining buildings or land or the street. The cost of repairing any damage resulting from any misuse of such fixtures, vents, registers and apparatus and the cost of repairing any damage to the Building, or to any facilities of the Building, or to any adjoining building or property, caused by any tenant, or the employees, agents, concessionaires, licensees, customers or invitees of such tenant, shall be paid by such tenant.
8. No tenant shall mark, paint, drill into, or in any way deface, any part of its premises or the Building. No boring, cutting or stringing of wires shall be permitted, except with the prior written consent of, and as directed by, Landlord. No telephone, telegraph or other wires or instruments shall be introduced into the Building by any tenant except in a manner approved by Landlord. Tenants shall not lay linoleum, or other similar floor covering, so that the same shall come in direct contact with the floor of their premises, and, if linoleum or other similar floor covering is desired to be used, an interlining of builders deadening felt shall be first affixed to the floor by a paste or other material, soluble in water, the use of cement or other similar adhesive material being expressly prohibited.
9. No bicycles, vehicles, animals (except seeing eye dogs), fish or birds of any kind shall be brought into, or kept in or about, any tenant's premises.
10. No noise, including, but not limited to, music, the playing of musical instruments, recordings, radio or television, which, in the judgment of Landlord, might disturb other tenants or visitors of the Building, shall be made or permitted by any tenant. Nothing shall be done or permitted by any tenant which would impair or interfere with the use or enjoyment by any other tenant or any visitor of the Building.
11. Nothing shall be done or permitted in any tenant's premises, and nothing shall be brought into, or kept in or about any tenant's premises, which would impair or interfere with any of the Building equipment or the services of the Building or the proper and economic heating, cleaning or other services of the Building or any tenant's premises, nor shall there be installed by any tenant any ventilating, air conditioning, electrical or other equipment of any kind which, in the judgment of Landlord, might cause any such impairment or interference. No tenant, nor the employees, agents, concessionaires, licensees, customers or invitees of any tenant, shall at any time bring or keep upon its premises any inflammable, combustible or explosive fluid, chemical or substance. Smoking or carrying lighted cigars or cigarettes in the Building is prohibited.
12. No additional locks or bolts of any kind shall be installed upon any of the doors or windows by any tenant, nor shall any changes be made in locks or the mechanism thereof without Landlord's prior approval. Each tenant shall, upon the expiration or sooner termination of the Lease of which these Rules and Regulations are a part, turn over to Landlord all keys to stores, offices and toilet rooms.
13. All removals, or the carrying in or out of any safes, freight, furniture, packages, boxes, crates or any other object or matter of any description if made by hand trucks, shall be only by hand trucks equipped with rubber tires, side guards and other safeguards that Landlord may require, and all such activity shall take place only during such hours and in such elevators as Landlord may from time to time determine, which may involve overtime work for Landlord's employees. Tenants shall reimburse Landlord for extra costs incurred by Landlord including but not limited to the cost of such overtime work. Landlord reserves the right to inspect all objects and matter to be brought into the Building and to exclude from the Building all objects and matter which violate any of these Rules and Regulations or the Lease of which these Rules and Regulations are a part. Landlord shall in no way be liable to any tenant for damages or loss arising from the admission, exclusion or ejection of any person to or from its premises or the Building under the provisions of this Rule.

14. Landlord shall have the right to prohibit any advertising or identifying sign by any tenant which, in the judgment of Landlord, tends to impair the appearance or reputation of the Building or the desirability of the Building as a mixed-use building, and upon written notice from Landlord, such tenant shall refrain from and discontinue such advertising or identifying sign.
15. All entrance doors in its premises shall be kept locked by each tenant when its premises are not in use and Landlord shall not be liable to any tenant for damage or loss within such tenant's premises, whether such doors are locked or unlocked.
16. No tenant's premises shall be used for lodging or sleeping or for any immoral or illegal purpose.
17. Tenants' requests will be attended to only upon application at Landlord's office. Employees of Landlord shall not perform any work or do anything outside of their regular duties, unless under instructions from Landlord.
18. Other than retail selling within a tenant's premises, canvassing, soliciting and peddling in the Building are prohibited and each tenant shall cooperate to prevent the same.
19. No tenant shall obtain for use in its premises ice, drinking water, towel and other similar services, or accept barbering or boot blacking services in its premises, except from persons authorized by the Landlord, and at hours and under regulations fixed by Landlord. Handing out literature, advertising, promoting, canvassing, soliciting, peddling and distributing merchandise samples in the building is prohibited and each tenant shall cooperate to prevent the same.
20. No tenant shall cause or permit any odors of cooking or other processes, or any unusual or objectionable odors, to emanate from its premises which would annoy other tenants or create a public or private nuisance. No cooking shall be done in any tenant's premises except as is expressly permitted in the Lease of which these Rules and Regulations are a part.
21. All paneling, doors, trim or other wood products not considered furniture shall be of materials as required by the Fire Safety Plan included in Landlord's Construction Requirements.
22. No tenant shall operate any coin or token operated vending machine or similar device for the sale of any goods, wares, merchandise, food, beverages, or services, including but not limited to, pay telephones, pay lockers, pay toilets, scales, amusement devices and machines for the sale of beverages, foods, candy, cigarettes or other commodities, without the prior written consent of Landlord.
23. Landlord reserves the right to rescind, alter, waive or add, as to one or more or all tenants, any rule or regulation at any time prescribed for the Building when Landlord or any Superior Lessor deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Building, or the preservation of good order therein, or the operation or maintenance of the Building, or the equipment thereof, or the comfort of tenants or others in the Building. No rescission, alteration, waiver or addition of any rule or regulation in respect of one tenant shall operate as a rescission, alteration or waiver in respect of any other tenant.
24. All mechanical equipment and machinery will be kept free of noise and vibrations which may be transmitted either to any part of the walls or building of which each tenant's premises forms a part or beyond the confines of each tenant's premises.
25. All tenants shall install and maintain fire extinguishers of the type and capacity and in such locations as may be required by law, and in the absence of any such Legal Requirement, all tenants shall install and maintain at a readily available location within their premises the type of fire extinguisher specified by all applicable fire and building codes.
26. Tenants shall not install, suffer or permit to be installed or placed any cover, facade, partition, decoration, alteration or improvement or the like over, upon or under the

sprinkler heads within their premises, and such sprinkler heads are to remain exposed at all times.

27. Subject to Landlord's prior approval, a tenant may install a security system within its premises, such system to be linked to the local Police Department or other agency as approved by Landlord. Landlord reserves the right to charge tenant a fee for and on account of any and each false alarm occasioned by tenant's security system (including any fire alarm system). Landlord shall have the right to determine the amount of any such fee, and any such fee(s) charged by Landlord pursuant to this provision shall be considered additional rent under tenant's lease. Such fees shall be in addition to any charge imposed by any governmental authority.
28. Tenants shall not install, place or permit any sign, awning, canopy, banner, flag, pennant, aerial, antenna or the like on the perimeter walls of their premises unless provided or consented to in writing by Landlord and each such item so provided or consented to shall be kept clean and in good order and state of repair and appearance by and at the expense of such tenant, including, without limitation, whenever necessary, the replacement thereof with materials similarly approved by Landlord.
29. Tenants shall not install, place or permit to be installed or placed any lights, fixtures, decorations of any sort or any flashing, blinking, neon or animated signs or lights in windows or areas visible to public view.
30. Tenants shall not solicit business or distribute handbills or other advertising matter in any common area within the Building or on the sidewalks, driveways, entrances or other areas adjacent to the Building.
31. Tenants shall not display in the windows of their premises or place in a location visible from the windows or glass door fronting on the Building public areas any items to which Landlord objects. All fixtures, trade fixtures, case work, millwork, and displays in or about the premises shall be maintained at all times by tenant in first class condition and repair.
32. Tenants shall not permit any delivery vehicles servicing their premises to park in front of or otherwise block any entrance to the Building or the sidewalk adjacent thereto.
33. Tenants shall not place on the sidewalk or street adjacent to the Building or in the public areas outside their premises any trash or recyclables for pickup.
34. Tenants shall not discharge or permit the discharge of objectionable fumes, vapors or odors into the Building's flues or vents or otherwise in such manner as may offend other tenants or occupants of the Building.
35. Tenants shall not sell any food, beverage or merchandise other than as expressly permitted in the Lease to which these Rules and Regulations are annexed, without first obtaining Landlord's approval of the sale of such food, beverage or merchandise.
36. Tenants shall not install, place or permit any exterior grille or gate for closure of storefront entrances or windows, except with the prior written approval of Landlord as to size, placement, color and design.
37. Tenants shall not use or permit to be used the public areas or other space in the Building outside of their premises for any display, sale or similar undertaking or storage or use or permit to be used any loudspeaker or other sound system or advertising device which may be heard outside their premises.
38. Tenants shall keep all mechanical apparatus free of vibration and noise which may be transmitted beyond their premises.
39. Tenants shall not conduct or permit to be conducted any auction, fire sale, going out of business sale, bankruptcy sale (unless directed by a court order), or other similar type sale.

40. If the sale of food is a Permitted Use under the Lease, Tenant's employees shall wear a uniform designed by or for Tenant, which uniform shall contain at least one article of clothing branded with Tenant's name and/or logo and which uniform shall be reasonably acceptable to Landlord.

Schedule C

[TO BE DELETED IF NOT APPLICABLE]

Revocable Storage Space License

1. **Defined Terms.** All capitalized terms used but not defined in this License shall have the respective meanings ascribed thereto in the Lease.

2. **Storage Space.** Landlord grants to Tenant a revocable license to use that certain storage space in the Building commonly known as #____, and more particularly indicated by hatching on Schedule C-1 annexed hereto and made a part hereof (the “**Storage Space**”), subject to and in accordance with the terms, covenants and conditions contained in this License, for a term (the “**License Term**”) commencing on the Commencement Date and expiring on the Expiration Date or sooner termination of the Lease or this license in accordance with law or the terms hereof. If for any reason, the Storage Space or any portion thereof shall not be available to Tenant on the Commencement Date, Landlord shall not be subject to any liability therefor and the validity of this License and the Lease shall not be impaired under such circumstances, nor shall such circumstances be construed in any way to extend the Term of the Lease and in such event, Tenant’s license of the Storage Space shall commence on the date that the Storage Space is made available for use by Tenant.

3. **Storage Space Fee.** From and after the Commencement Date and throughout the License Term, Tenant shall pay to Landlord, as additional rent under the Lease, the following annual amounts during the following periods (the “**Storage Space Fee**”):

PERIOD	ANNUAL STORAGE SPACE FEE
Commencement Date through First Lease Year	\$
Lease Year 2	\$
Lease Year 3	\$
Lease Year 4	\$
Lease Year 5	\$
Lease Year 6	\$
Lease Year 7	\$
Lease Year 8	\$
Lease Year 9	\$
Lease Year 10	\$

The Storage Space Fee shall be payable in monthly installments, in advance, on or before the first day of each month during the License Term, without setoff, deduction, counterclaim or demand therefore. The provisions of the Lease governing the payment of, or the failure to pay, the Minimum Rent shall similarly govern the payment of, or the failure to pay, the Storage Space Fee; provided, however, that the Storage Space Fee shall not be considered Minimum Rent for purposes of calculating Tenant’s Percentage Rent Base Amount. Notwithstanding the foregoing, so long as no Event of Default shall exist and be continuing hereunder, the Storage Space Fee shall be abated for the period from the Commencement Date through and including the date immediately preceding the Rent Commencement Date. In the event that the Rent Commencement Date shall be other than the first day of a month, the Storage Space Fee for such month shall be appropriately prorated.

4. **As-is Condition.** Tenant acknowledges that it has inspected the Storage Space and accepts the Storage Space in its “as-is” and “where is” condition on the date of delivery thereof. The taking of occupancy of the whole or any portion of the Storage Space by Tenant shall be conclusive evidence that Tenant accepts the same in “as is” and “where is” condition as of the date of such occupancy.

5. **Tenant Obligations.** Except as expressly provided herein, Tenant shall have all of the same covenants and obligations with respect to the Storage Space as Tenant shall have with respect to the Premises, including, without limitation, the obligation to obtain and maintain insurance with respect to the Storage Space.

6. Permitted Use. Tenant shall use and occupy the Storage Space, incidental to Tenant's use of the Premises, solely for the storage of inventory for Tenant's business conducted in the Premises and for no other purpose, unless expressly consented to by Landlord in writing, which consent may be withheld or granted in Landlord's sole and absolute discretion. Tenant shall at all times use and occupy the Storage Space in accordance with the Rules and Regulations, all other terms and conditions of the Lease, and all applicable Legal Requirements and Insurance Requirements. Any and all boxes shall be stored above floor level, at a minimum of 12 inches above the floor. Heavy duty adjustable metal shelves and racks must be used. When practicable, inventory shall be stored in sealed plastic containers. Tenant shall keep the Storage Space and the area immediately adjacent thereto neat and clean, in good order and repair, such that at all times the Storage Space shall be maintained by Tenant to be free of vermin, obstructions, litter and clutter. Tenant shall not place or permit to be placed any signs, notices or advertisements upon the Storage Space without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Without limiting the generality of the foregoing, Tenant shall not store any flammable, explosive or other hazardous items in the Storage Space.

7. No Services. Except as expressly provided in this Section 7, Landlord shall have no obligation to perform any work or to provide any utilities, trash removal, water, cleaning, pest control or other services to the Storage Space. Landlord shall furnish to the Storage Space, according to such specifications as Landlord shall prescribe, electricity for general lighting purposes only. In the event that Tenant shall require special equipment for use within the Storage Space, the same shall be subject to Landlord's prior written approval and Tenant shall provide such special equipment at Tenant's sole cost and expense (including, without limitation, the cost of providing additional electrical service thereto). Tenant shall be solely responsible for the security of the Storage Space and for the proper and safe storage of items therein, and Tenant acknowledges and agrees that Landlord shall have no liability to Tenant or any party claiming through Tenant for any theft, loss, or damage to any items stored in the Storage Space.

8. Access. Tenant shall have access to the Storage Space at all times during Operating Hours and during such other hours, if any, as may be designated by Landlord. Landlord shall have the right to enter the Storage Space in accordance with Article 15 of the Lease. Periodically during the License Term and upon the expiration of the License Term, Landlord may inspect the Storage Space for cleanliness, pest infestation and damage. Tenant shall, upon demand, reimburse Landlord for any and all costs or expenses incurred by Landlord for cleaning, repairing and/or exterminating the Storage Space as deemed necessary by Landlord.

9. Deliveries. Deliveries shall be made to the Storage Space only through the loading facilities and corridors then designated by Landlord from time to time for such purpose. Tenant's use of such designated loading facilities and corridors shall be on a non-exclusive basis, and such designated loading facilities and corridors shall be used by Landlord and other tenants and occupants. Use of the loading facilities and corridors shall be scheduled by Landlord. No deliveries shall be made through any area of the Building to which the general public has access between the hours of 7:00 A.M. to 10:00 P.M. or between the hours of 4:00 P.M. to 8:00 P.M., Mondays through Fridays.

10. Sole Risk. It is expressly acknowledged by Tenant that the use and occupancy of the Storage Space shall be at Tenant's sole risk. In this regard, Tenant acknowledges and agrees that neither Landlord nor any Superior Lessor, Superior Mortgagee, or any such party's Affiliates, employees, its agents and assigns, shall be liable for any injury or damage to any property or to any person happening in or about the Storage Space, nor for any injury or damage to any property of Tenant contained therein, and Tenant hereby releases Landlord, any Superior Lessor, Superior Mortgagee, and any such party's Affiliates, employees, its agents and assigns, from any liability whatsoever for any loss, liability or damage suffered by Tenant arising out of or in connection with the use by Tenant of the Storage Space.

11. Casualty; Condemnation. If Articles 10 or 11 of the Lease shall afford Tenant the right to terminate the Lease on account of casualty damage or condemnation, then the determination of whether Tenant shall have such right to terminate shall be made without regard to the Storage Space. Tenant shall have no right to terminate the Lease or this License on account of damage to or taking of the Storage Space.

12. Substitution. Landlord may, in its sole discretion, relocate the Storage Space to other comparable space in the Building of comparable size, at any time and from time to time during the License Term or during any renewal or extension thereof, upon not less than thirty (30) days' prior written notice of its intention to do so. Tenant shall be solely responsible for any and all expenses incurred in connection with its surrender of the Storage Space upon any such relocation or the moving of items stored in the Storage Space. In the event that Landlord notifies Tenant that it desires to relocate the Storage Space and Tenant objects to the substitute space within the thirty (30) day notice period, then Tenant may elect to terminate its license of the Storage Space as of the end of said thirty (30) day notice period. In the event of any termination of Tenant's license of the Storage Space, this License shall be deemed terminated and the Lease shall be unaffected thereby.

13. Landlord's Remedies. The rights and remedies provided to Landlord in this License shall be deemed supplementary to, and shall not be deemed to supersede, those rights and remedies provided to Landlord in the Lease. This License shall govern with respect to the Storage Space in the event of an inconsistency between this License and the Lease or any of the other Schedules to the Lease. Except as hereinabove specifically amended, Landlord and Tenant hereby ratify and confirm the terms and provisions of the Lease.

14. No Alterations; Restoration. Tenant shall make no changes, alterations or repairs in or to the Storage Space. Upon the expiration or sooner termination of the Lease or this License, Tenant, at its sole cost and expense, shall remove all personal property from the Storage Space and restore the Storage Space to the condition in which it was delivered, and Tenant shall return the Storage Space to Landlord in broom clean condition. Landlord, in its sole discretion, shall have the right to repair, at Tenant's sole cost and expense, any damage caused by Tenant to the Building, the Storage Space and/or the property of Landlord.

15. No Assignment or Transfer. Neither this License nor Tenant's right to use the Storage Space shall by operation of law or otherwise be sold, assigned, mortgaged, pledged or otherwise transferred by Tenant nor shall the Storage Space or any part thereof be encumbered in any manner nor shall the Storage Space be sublet, further licensed or concessioned to or be used or occupied by anyone other than Tenant. Any such assignment, sublease, mortgage, pledge, or other transfer shall be null and void *ab initio*. Violation of this Section 15 shall be a material default of this License and an Event of Default under the Lease, and Landlord shall have all of its rights and remedies pursuant to this License, the Lease, and at law and in equity.

16. Holding Over by Tenant. (a) If Tenant remains in occupancy of the Storage Space after the expiration or earlier termination of this License or the Lease without Landlord's consent, then as liquidated damages and not as a penalty, the Storage Space Fee payable by Tenant to Landlord shall be Five Hundred Dollars (\$500.00) per day, payable upon demand, in addition to any other rights and remedies available to Landlord pursuant to this License, the Lease, at law and in equity.

(b) If Tenant remains in occupancy of the Storage Space after the expiration or earlier termination of this License or the Lease with Landlord's consent, then Tenant may continue in occupancy of the Storage Space on a month-to-month basis on all of the terms and conditions of this License, except that the annual Storage Space Fee shall be increased on the day immediately following the Expiration Date and on each anniversary thereof by multiplying the Storage Space Fee then payable during the immediately preceding year by 105%. Landlord's acceptance of the Storage Space Fee after such holding over shall not result in any tenancy (other than the month to month occupancy provided for herein) or in a renewal of the original License Term. Either party may terminate the occupancy described in this Section 16(b) by delivering at least thirty (30) days prior written notice thereof to the other party.

17. Revocability by Landlord. This License and the license granted hereunder to Tenant are revocable, and may be terminated at will by Landlord, without cause, at any time in the case of an emergency (as determined by Landlord in its sole discretion) and otherwise upon thirty (30) days' prior written notice to Tenant. Furthermore, in the event of Tenant's failure to perform or observe any term or condition of this License, then the thirty (30) day period in the preceding sentence shall be reduced to five (5) days, such that this License and the license granted hereunder may be terminated by Landlord upon five (5) days' prior written notice to Tenant. This License is a license to use and does not constitute a lease of the Storage Space and does not confer upon Tenant any right, title or interest in the Storage Space of a tenant under the

law of the State of New York in any action against Landlord, in any claim brought by Tenant against Landlord, or in defense against any action brought by Landlord.

Schedule C-1

[TO BE DELETED IF NOT APPLICABLE]

Storage Space Floor Plan

Note: This floor plan is annexed to and made a part of this Lease solely to indicate the Storage Space by outlining and/or diagonal marking. This diagram is an approximate lease plan of the Building. All measures, dimensions and distances are not to scale. The depiction herein does not constitute a warranty or representation of any kind.

Schedule D

Form of Guaranty

In consideration of, and as an inducement for the granting, execution and delivery of that certain Lease Agreement (the "**Lease**") dated as of the ___ day of _____, 20___, by METROPOLITAN TRANSPORTATION AUTHORITY, acting by and through METRO-NORTH COMMUTER RAILROAD COMPANY ("**Landlord**"), to _____ ("**Tenant**"), for the lease of certain space known as Space #_____ [**IF APPLICABLE:** (together with that certain storage space commonly known as Storage Space _____)] in the building (the "**Building**") known as Grand Central Terminal, located at Vanderbilt, Park and Lexington Avenues and 42nd Street in the City and State of New York, said space being more particularly identified in the Lease and being hereinafter referred to as the "**Premises**", and in further consideration of the sum of Ten (\$10) Dollars and other good and valuable consideration paid by Landlord to the undersigned, the receipt and sufficiency of which is hereby acknowledged, the undersigned ("**Guarantor**") hereby guarantees to Landlord, its successors and assigns, the full and prompt payment of all rent, including, without limitation, the Minimum Rent, Percentage Rent (if any), additional rent and any and all other sums and charges (including damages), whether now existing or hereafter arising, payable by Tenant, its successors and assigns under the Lease with respect to the Premises (collectively, the "**Rent**"), and the full performance and observance of all the covenants, terms, conditions and agreements therein, whether now existing or hereafter arising, provided to be performed and observed by Tenant, its successors and assigns with respect to the Premises, and Guarantor hereby covenants and agrees to and with Landlord, its successors and assigns, that if any default shall at any time be made by Tenant, its successors and assigns, in the payment of any Rent payable with respect to the Premises or in the performance of any of the terms, covenants, provisions or conditions contained in the Lease with respect to the Premises, Guarantor will forthwith pay such sums to Landlord, its successors and assigns, and any arrears thereof, and will forthwith faithfully perform and fulfill all of such terms, covenants, conditions and provisions, and will forthwith pay to Landlord all damages, including costs, expenses, fees and charges incurred by Landlord, that may arise in consequence of any default by Tenant, its successors and assigns under the Lease with respect to the Premises, including, without limitation, all reasonable attorneys' fees and disbursements incurred by Landlord or caused by any such default and/or by the enforcement of and collection upon this Guaranty.

1. This Guaranty is an absolute, unconditional and irrevocable Guaranty of payment and of performance and not merely of collection. It shall be enforceable against Guarantor, its successors and assigns, without the necessity for any suit or proceedings on Landlord's part of any kind or nature whatsoever against Tenant, its successors and assigns, irrespective of the validity, binding effect, legality or enforceability of the Lease or whether the Lease shall have been duly executed by Tenant, or any other circumstance which might now or hereafter or otherwise constitute a legal or equitable discharge of a guarantor. The liability of Guarantor is co-extensive with that of Tenant and also joint and several and this Guaranty shall be enforceable against Guarantor without the necessity of any notice of non-payment, non-performance or non-observance or any notice of acceptance of this Guaranty or any other notice or demand to which Guarantor might otherwise be entitled, all of which Guarantor hereby expressly waives; and Guarantor hereby expressly agrees that the validity of this Guaranty and the obligations of Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the assertion or the failure to assert by Landlord against Tenant, or Tenant's successors and assigns, of any of the rights or remedies reserved to Landlord pursuant to the provisions of the said Lease. Notwithstanding anything in this Guaranty or the Lease to the contrary, Guarantor hereby agrees that (a) Landlord may elect (in its sole discretion) to (i) enforce this Guaranty without the necessity of proceeding against any named tenant at any time in the chain of possession or resorting to or exhausting or applying any other security, collateral or other guaranty given in connection with the Lease and/or Tenant's obligations and liabilities thereunder (including, without limitation, any security deposit, letter of credit or other security furnished to Landlord as security for Tenant's obligations under the Lease), and Guarantor hereby irrevocably waives any right to require Landlord to so resort to or exhaust any such security, collateral or other guaranty prior to enforcing this Guaranty against Guarantor; or (ii) proceed against any named tenant at any time in the chain of possession or apply any other security or collateral or seek to enforce any other guaranty given in connection with the Lease and/or Tenant's obligations thereunder (including, without limitation, apply all or any portion of any security deposit, letter of credit proceeds or other security furnished to Landlord as security

for Tenant's obligations under the Lease) to cure any Tenant default or offset any damages incurred by Landlord under the Lease prior to enforcing this Guaranty; and (b) Guarantor's liability under this Guaranty shall not be affected in any manner by the existence of any other security, collateral or other guaranty, or any application or enforcement by Landlord thereof.

2. Guarantor hereby expressly agrees that this Guaranty shall be a continuing Guaranty, that this Guaranty shall remain in full force and effect and that the validity of this Guaranty and the obligations and liability of Guarantor hereunder shall in no way be terminated, affected, diminished or impaired by reason of any of the following (regardless of whether Guarantor shall have had notice or knowledge thereof):

(a) any amendment, renewal, extension or modification of, or addition or supplement to, any of the terms of the Lease; or

(b) any assignment or surrender of all or any part of the Lease or the term and estate thereby granted or of all or any part of the Premises, or any subletting of all or any part of the Premises; or

(c) any compromise, release, consent, extension, indulgence or other action, inaction or omission in respect to any of the terms of the Lease; or

(d) any substitution or release, in whole or in part, of any security for the Lease or this Guaranty or any other guaranty which may be held at any time by Landlord or its successors or assigns; or

(e) any exercise or non-exercise by Landlord or its successors or assigns of any right, power or remedy under or in respect of the Lease or any security held by Landlord with respect thereto, or any waiver of any such right, power or remedy; or

(f) any additional security at any time held by Landlord in connection with the Lease, or by any substitution or release, in whole or in part, of any such security; or

(g) any bankruptcy, insolvency, reorganization, arrangement, adjustment, composition, liquidation, or the like of Tenant or any other guarantor; or the discharge or release of Tenant or any other guarantor in any such bankruptcy proceeding; or

(h) any limitations of Tenant's liability under the Lease or any limitation of Tenant's liability which may now or hereafter be imposed by any statute, regulation or rule of law, or any illegality, irregularity, invalidity or unenforceability, in whole or in part, of the Lease or any term thereof; or

(i) any sale, lease or transfer of any or all of the assets of Tenant to any other person, firm or entity; or

(j) any failure by Landlord to mitigate damages under the Lease or this Guaranty or any other guaranty; or

(k) any change in the name or composition or structure of Tenant; or

(l) any other circumstance, matter or thing whatsoever, which might be deemed to be, or give rise to, a defense by a surety or guarantor.

3. Guarantor hereby waives notice of acceptance of this Guaranty, presentment and protest of the Lease and notice thereof, notice of default under the Lease, notice of any change in Tenant's financial condition, and all other notices to which Guarantor may otherwise be entitled.

4. This Guaranty contains the sole and entire understanding and agreement with respect to its entire subject matter, and all prior negotiations, discussions, commitments, representations, agreements and understandings heretofore had with respect thereto are merged herein. Guarantor acknowledges that, except as specifically set forth in this Guaranty, no oral or other agreements, understandings, representations or warranties exist with respect to this Guaranty or the obligations of Guarantor under this Guaranty. This Guaranty cannot be changed or terminated orally.

5. The failure of Landlord to enforce any right or remedy hereunder, or promptly to enforce any such right or remedy, shall not constitute a waiver thereof, nor give rise to any estoppel against Landlord, nor excuse Guarantor from its obligations hereunder. No waiver or modification of any provision of this Guaranty nor any termination of this Guaranty shall be effective unless in writing and signed by Landlord, nor shall any waiver be applicable, except in the specific instance for which it is given.

6. All remedies afforded to Landlord by reason of this Guaranty are separate and cumulative remedies and it is agreed that no one of such remedies, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other remedy available to Landlord and shall not limit or prejudice any other legal or equitable remedy which Landlord may have.

7. In amplification of, and in no way in limitation of the provisions of the first (unnumbered) paragraph hereof, in the event it shall become necessary for Landlord to employ counsel to enforce Guarantor's obligations under this Guaranty or any part thereof, Guarantor agrees to pay Landlord's attorneys' fees whether suit be brought or not, including attorneys' fees on appeal or in bankruptcy proceedings, and all other costs and expenses reasonably connected therewith.

8. Nothing herein contained is intended or shall be construed to give any right of subrogation under the Lease or any right to participate in any way therein or in Landlord's right, title or interest in the Lease. Notwithstanding any payments made under this Guaranty, all rights of subrogation and participation are expressly waived and released.

9. Guarantor represents and warrants to Landlord, with the knowledge that Landlord is relying upon the same, as follows:

(a) Guarantor is solvent and has full power and legal right and authority to enter into this Guaranty and to perform its obligations under the terms hereof;

(b) there is no action, suit, proceeding or investigation pending, or to the best of Guarantor's knowledge, threatened against or affecting Guarantor at law, in equity, in admiralty or before any arbitrator or any governmental department, commission, board, bureau, agency or instrumentality (domestic or foreign) which is likely to result in any material adverse change in the property, assets or condition (financial or otherwise) of Guarantor or which is likely to impair materially the ability of Guarantor to perform their obligations under this Guaranty; and

(c) all financial statements which have heretofore been furnished by Guarantor to Landlord in connection with this Guaranty fairly present the financial condition of Guarantor, all as of the respective dates thereof.

10. Guarantor represents and warrants to Landlord that there has been no reduction in the net worth of Guarantor since the date of those financial statements for the most recent calendar year, copies of which have been delivered to Landlord. Guarantor agrees that it will notify Landlord of any threatened or actual reduction in such net worth of Guarantor as soon as Guarantor becomes aware of any such threatened or actual reduction in such net worth. Within five (5) days after request of Landlord (but not more than once in any twelve (12) month period), Guarantor shall deliver to Landlord such further financial statements of Guarantor, which shall be in form and substance reasonably satisfactory to Landlord and certified by Guarantor as true and correct. In addition, Guarantor shall permit Landlord, upon five (5) days' prior notice (but not more than once in any twelve (12) month period), to examine the records, books and other papers of Guarantor which reflect upon its net worth.

11. Guarantor represents and warrants to Landlord that Guarantor is the owner and holder of a controlling ownership interest of Tenant. Guarantor deems the granting, execution and delivery of the Lease to be in Guarantor's best interests and, as the owner of such controlling ownership interest of Tenant, Guarantor expects to derive benefit from the granting, execution and delivery of the Lease.

12. In the event that this Guaranty shall be held ineffective or unenforceable as a guaranty by any court of competent jurisdiction, Guarantor shall be deemed to be a tenant

under the Lease with the same force and effect as if Guarantor were expressly named as a joint tenant therein with joint and several liability, subject to the Maximum Liability.

13. Until all of Tenant's obligations under the Lease are fully performed, Guarantor (a) waives any rights that Guarantor may have against Tenant by reason of any one or more payments or acts in compliance with the obligations of Guarantor under this Guaranty and (b) subordinates any liability or indebtedness of Tenant held by Guarantor to the obligations of Tenant to Landlord under the Lease.

14. Guarantor's obligations shall be binding upon its heirs (if applicable), successors and assigns and shall inure to the benefit of Landlord and its successors and assigns.

15. The provisions of this Guaranty shall survive the termination of the Lease for the purpose of any claims, suit, action or proceeding arising, directly or indirectly, out of or relating to the Lease or any action to enforce the Lease.

16. As a further inducement to Landlord to make and enter into the Lease and in consideration thereof, to the extent permitted by law, Guarantor hereby waives trial by jury and the right thereto in any action, proceeding or counterclaim of any kind or nature, arising on, under or by reason of or relating to, this Guaranty or any agreement collateral hereto.

17. Guarantor hereby (a) irrevocably consents and submits to the jurisdiction of any Federal, state, county or municipal court sitting in the State of New York in respect to any action or proceeding brought therein by Landlord against Guarantor concerning any matters arising, directly or indirectly, out of or in any way relating to this Guaranty; (b) irrevocably waives personal service of any summons and complaint and consents to the service upon it of process in any such action or proceeding by the mailing of such process to Guarantor at [_____] and hereby irrevocably designates Tenant's counsel, [_____] to accept service of any process on Guarantor's behalf and hereby agrees that such service shall be deemed sufficient; (c) irrevocably waives all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceeding; (d) agrees that the laws of the State of New York shall govern in any such action or proceeding and waives any defense to any action or proceeding granted by the laws of any other country or jurisdiction unless such defense is also allowed by the laws of the State of New York; and (e) agrees that any final judgment rendered against it in any such action or proceeding shall be conclusive and may be enforced in any jurisdiction by suit on the judgment or in any other manner provided by law. Guarantor further agrees that any action or proceeding by Guarantor against Landlord in respect to any matters arising, directly or indirectly, out of or in any way relating to this Guaranty shall be brought only in the State of New York, County of New York. Notwithstanding the foregoing provisions of this Paragraph 17, Guarantor may, by written notice to Landlord, change the designated agent for acceptance of service of process to any other law firm located in the County, City and State of New York.

18. The laws of the State of New York applicable to contracts made and to be performed wholly within the State of New York shall govern and control the validity, interpretation, performance and enforcement of this Guaranty without regard to principles of conflicts of laws.

19. Guarantor absolutely, unconditionally and irrevocably waives any and all right to assert any defense, setoff, cross-claim or non-compulsory counterclaim of any nature whatsoever with respect to this Guaranty or the obligations of Guarantor under this Guaranty or the obligations of any other party (including, without limitation, Tenant or any other guarantor) relating to this Guaranty or to the obligations of Guarantor under this Guaranty or otherwise with respect to the Lease in any action or proceeding brought by Landlord to enforce the obligations of Guarantor under this Guaranty; provided, however, that nothing contained in this Paragraph 19 shall be deemed a waiver by Guarantor of any right it may have to bring a separate proceeding with respect to the matters which would have been asserted by such defenses, set-offs, cross-claims or counterclaims.

20. Any bill, notice, request, consent, approval or other communication (other than service of process upon Guarantor which shall be governed by Paragraph 17 of this

Guaranty) (“**Notice**”) given or made hereunder to be effective shall be in writing (whether or not so stated in the applicable provisions of this Guaranty) and either (a) sent by registered or certified mail, return receipt requested, postage prepaid, or (b) delivered in person or by overnight courier, with receipt acknowledged to, in the case of Guarantor, to Guarantor’s mailing address at [_____], and in the case of Landlord, to the addresses for Notices to Landlord under the Lease, or to such other addresses for such party as such party shall hereafter designate by Notice given to the other party pursuant to this Paragraph 20. Notices shall be deemed to have been given or served (i) on the date delivered or on the date delivery is refused, if delivered personally, (ii) on the business day after the same is sent, if sent by reputable overnight courier service for next business day delivery, or (iii) three (3) days following the date mailed, if mailed as provided in this Paragraph 20; *provided, however*, that a Notice to Landlord shall not be deemed to have been given or served until a copy of such Notice also shall have been given in the manner provided herein to each party entitled thereto pursuant to this Paragraph 20.

21. If any provision of this Guaranty or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Guaranty or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid shall not be affected thereby and each provision of this Guaranty shall be valid and enforced to the fullest extent permitted by law.

22. Guarantor warrants and represents that the person executing is duly authorized to execute this Guaranty.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the ____ day of _____, 20__.

By: _____
Name: _____
Title: _____

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SCHEDULES AND ATTACHMENTS

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Attachment 3	Wire Transfer Instructions for Rent Payments
Schedule A	Premises Floor Plan
Schedule B	Rules and Regulations
Schedule C	Revocable Storage Space License [Substitute “Intentionally Omitted” if note applicable]
Schedule C-1	Storage Space Floor Plan [Substitute “Intentionally Omitted” if note applicable]
Schedule D	Form of Guaranty

**METROPOLITAN TRANSPORTATION AUTHORITY,
ACTING BY AND THROUGH
METRO-NORTH COMMUTER RAILROAD COMPANY,**

LANDLORD,

AND

_____ ,

TENANT

LEASE AGREEMENT

Dated as of _____ , 20__

Premises: Space # _____, Grand Central Terminal