

## RETAIL LEASE AGREEMENT

**THIS RETAIL LEASE AGREEMENT** (this "Lease") is made as of this 27 day of March 2019 (the "Effective Date"), by and between **WFS2, L.L.C.**, a District of Columbia limited liability company ("Landlord"), and **AppleTree Early Learning Public Charter School**, a District of Columbia nonprofit corporation ("Tenant"), who agree as follows:

### **1. FUNDAMENTAL LEASE PROVISIONS:**

- |    |  |  |
|----|--|--|
| A. | Tenant's Trade Name:                           | AppleTree Early Learning Public Charter School   |
| B. | Premises:                                      | The ground floor retail space which contains approximately 9,200 square foot of the building together with the recreation/outdoor area described in Section 7.10 (collectively, the "Premises") located at Square 542, Lot 822 in the District of Columbia. Final measurements may vary. Premises is outlined in <b><u>Exhibit A</u></b> . |
| C. | Building:                                      | The building located at Square 542, Lot 822 in the District of Columbia.   |
| D. | Term:  | Twelve (12) Years from the Rent Commencement Date.   |
|    | Lease Commencement/<br>Premises Delivery Date: | Premises will be delivered to Tenant prior to building completion to provide Tenant with access to building for Tenant Improvement work ("Early Access"). The condition of the building for Early Access delivery is further defined in <b><u>Exhibit B-6</u></b> .  |
|    | Rent Commencement<br>Date:                     | The earlier of (i) one hundred eighty (180) days after Landlord delivers the Premises to Tenant with Landlord's Work completed in accordance with <b><u>Exhibit B-6 Early Access for Tenant Improvement Work</u></b> , or (ii) 30 days after Tenant obtaining the Certificate of Occupancy.  |

Termination Date:	The date which is (i) twelve (12) years from the Rent Commencement Date if the Rent Commencement Date is on the first day of a calendar month or (ii) the last day of the one hundred eightieth (180th) full calendar month after the Rent Commencement Date if the Rent Commencement Date is not on the first day of a calendar month.
E. Annual Minimum Rent:	\$53.07 per square foot NNN the first Lease Year with 2.5% annual escalations.
F. Percentage Rent:	N/A.
G. Operating Expenses and Real Property Taxes	See Section 4.2.
H. Tenant's Pro-Rata Share:	To be reasonably determined by Landlord and subject to review by Tenant during CAM reconciliations.
I. Security Deposit:	Payable on lease execution, Tenant will provide \$90,000; due upon Lease execution.
J. Address for Notices:	
If to Landlord:	WFS2, L.L.C. 760 Maine Ave SW Washington, D.C. 20024 Attention: Mark Dorigan, Esquire
If to Tenant	1801 Mississippi Ave SE Third Floor Washington, DC 20020 Attention: President and CEO

- K.     Guaranty:                     AppleTree Early Learning Public Charter School will guaranty the Tenant's Lease obligations for payment and performance for the first Four (4) years of the Term; and, commencing on the first day of the Fifth (5<sup>th</sup>) Lease year, Twelve (12) months of Lease obligations for the remainder of the Term. AppleTree Early Learning Public Charter School shall maintain not less than \$2mm in liquid assets and \$5mm in net worth.
- L.     Permitted Use:                The Premises shall be used solely as an early-education school facility.
- M.     Broker:                        Landlord and Tenant acknowledge that there were no brokers involved in the negotiation of this transaction other than Landlord.
- N.     Plan Submission Date:         Tenant's Plans and Specifications shall be submitted to Landlord in accordance with the Work Agreement.
- O.     Project                         The Land located at 1000 4<sup>th</sup> Street, SW and all real and personal property located thereon, including, without limitation, the residential property, the retail property and the Improvements.
- P.     Work Agreement                The Work Agreement attached hereto as **Exhibit B.**
- Q.     Waiver of Subrogation.        Tenant and Landlord will each require a mutual waiver of claim and subrogation for loss or damage to property, both real and personal, caused by or resulting from casualties customarily insurable.

## **2.     PREMISES AND LANDLORD IMPROVEMENTS.**

2.1.   Premises. In consideration of the Tenant's agreement to pay the Rent and the covenants and conditions herein contained, Landlord hereby leases to Tenant and Tenant hereby hires and leases from Landlord, upon the terms and conditions set forth herein the Premises. The lease of the Premises includes the right, to use the Recreation Area. Other than the Recreation Area, Tenant shall not have the right to use any space outside the Building for the operation of Tenant's business nor have any other rights unless specifically set forth herein.

2.1.1. Rentable Square Footage. Within thirty (30) days following Landlord's delivery of the Premises on the Commencement Date, Landlord shall provide notice to Tenant representing the actual rentable square footage of the Premises based on Landlord's architect's or engineer's measurements. Landlord's architect or engineer shall be licensed in the District of Columbia. Tenant may request to have the space re-measured at their own expense by an architect or engineer licensed in the District of Columbia to confirm the rentable square footage of the Premises. Such field measurement shall be made from the outside of exterior and corridor walls and from the centerline of the interior demising walls. If Tenant's architect or engineer disagrees with such determination by Landlord's architect or engineer, Tenant may contest Landlord's determination by giving Landlord written notice within fifteen (15) days following Tenant's receipt of such determination by Landlord's architect or engineer (the "Measurement Period"). If Landlord's architect or engineer and Tenant's architect or engineer cannot mutually agree within thirty (30) days after Tenant's receipt of Landlord's determination of such rentable square footage, the dispute shall be resolved by an independent architect or engineer to be mutually agreeable to Landlord and Tenant, the cost of whose services shall be shared equally by Landlord and Tenant. If Tenant fails to notify Landlord of any objections to the measurement of the Premises within the Measurement Period, the Premises shall be conclusively deemed to be the size set forth in the letter from Landlord's architect or engineer. To the extent the rentable square footage of the Premises as remeasured represents a change of more than five percent (5%) from the rentable square footage of the Premises set forth in Section 1B, Annual Minimum Rent shall be adjusted in accordance with the new measurement of the Premises. In addition, the amount of the Tenant Improvement Contribution and Tenant's Pro Rata Share shall also be adjusted accordingly based on the new measurement of the Premises. Landlord and Tenant shall execute a letter agreement setting forth the new area of the Premises and adjusted Rent, Tenant Improvement Contribution and Pro Rata Share. If Tenant fails to timely request measurement of the Premises, then the square footage of the Premises set forth in Section 1B shall be deemed accurate and accepted by Tenant.

2.2. Improvements. Tenant hereby accepts the Premises as set forth in Section 6, provided however that Landlord agrees to substantially complete at Landlord's expense the items set forth as Landlord Improvements in the Work Agreement. Landlord and Tenant shall coordinate the construction and installation of the Landlord Improvements (Defined in Schedule B-1) with the construction and installation of the Tenant Improvements (as defined in the Work Agreement). Except as expressly set forth in the Work Agreement, Landlord is under no obligation to make any alterations or improvements in or to the Premises. Tenant, at its sole cost and expense (subject, however, to the application of the Tenant Improvement Contribution (as defined in Section 31) shall design and construct the Tenant Improvements in accordance with the Work Agreement.

### 3. **TERM.**

#### 3.1. Initial Term.

3.1.1. Term. The Lease shall be in full force and effect from the Effective Date. The Commencement Date, the Rent Commencement Date and the Termination Date of this Lease shall be as set forth in Section 1D. The term of the Lease (the "Term") shall be the period from and including the Commencement Date through and including the Termination Date. If Tenant, with Landlord's consent, takes possession of the Premises for purposes of occupancy prior to the Commencement Date, Tenant shall be subject to all the covenants and conditions hereof (except for the payment of Rent). This Lease shall terminate on the Termination Date without the necessity of notice from either party to the other party.

3.1.2. Timing of Delivery. Landlord shall deliver the Premises in Early Access condition, per Exhibit B-6 to Tenant on about a date to be established upon issuance of a Notice to Proceed letter to the Base Building Contractor (the "Estimated Delivery Date"). If the Commencement Date shall occur after the Estimated Delivery Date this Lease shall remain in full force and effect and Tenant shall have no claim against Landlord because of such delay, except as provided below. Landlord shall provide Tenant with not less than sixty (60) days prior written notice of the date Landlord estimates delivering Early Access of the Premises to Tenant. The date Landlord delivers the Premises in the Early Access condition will be the "Early Access Date" for all purposes hereunder. Notwithstanding any provision herein to the contrary, if Landlord has not completed the Landlord Improvements within three months after the Delivery Date, rent in no circumstance shall not commence earlier than three (3) months after completion of the Landlord Improvements.

3.1.3. Lease Year and Calendar Year. For purposes of this Lease, (i) "Lease Year" shall mean, for the first Lease Year, the period commencing on the Commencement Date and ending on the last day of the "School Year" and for each succeeding Lease Year, each consecutive "School Year" period thereafter during the Term, and (ii) "School Year" shall begin on July 1 and end on June 30.

3.1.4. Guarantor. It is a condition to Landlord's obligations under this Lease that Guarantor guaranty the payment and performance of Tenant's obligations under this Lease by executing and delivering to Landlord a guaranty of this Lease in the form attached hereto as Exhibit H.

4. **RENT.** Tenant covenants and agrees to pay as and when they are due without notice, any and all sums of money which may become due under this Lease, and that all such sums without limitation (except for Annual Minimum Rent) shall constitute "Additional Rent." The term "Rent" shall include both Annual Minimum Rent and Additional Rent. The same remedies of Landlord shall apply with respect to a Default (hereinafter defined) in the payment of Additional Rent or Annual Minimum Rent.

4.1. Annual Minimum Rent.

4.1.1. During each Lease Year Tenant shall pay Landlord as a minimum annual rent, the amounts set forth in Section 1E ("Annual Minimum Rent"). Annual Minimum Rent for each Lease Year during the Term shall be payable, in advance, in twelve (12) equal monthly installments beginning on the Rent Commencement Date. Each monthly installment of Annual Minimum Rent shall be due on the first day of each and every calendar month during the Term beginning on the Rent Commencement Date. If the Rent Commencement Date is a date other than the first day of a month, rent for the period commencing with and including the Rent Commencement Date and ending on and including the day prior to the first day of the following month shall be prorated at the rate of one-thirtieth (1/30th) of the monthly installment of Annual Minimum Rent per day and shall be due and payable on the Rent Commencement Date. All Rent shall be paid in lawful money of the United States of America without deduction or offset, prior notice or demand, at the address set forth in Section 1J or at such other place as Landlord may hereafter designate in writing. Rent checks are to be made payable to Landlord or such other person, firm or corporation as Landlord may hereafter designate in writing.

4.1.2. It is the intention and agreement of Landlord and Tenant and both hereby agree that Annual Minimum Rent shall be net to Landlord, and that in addition to Annual Minimum Rent, and as Additional Rent, Tenant shall pay all costs and expenses in connection with its use

and occupancy of the Premises, including but not limited to the costs for electricity, gas, heating, cooling, cold and hot water, cleaning, sewer, trash, gas and all other services, as and when the same shall become due and payable and before interest or penalties shall be due thereon, and the costs and expenses of any repair or maintenance obligations of Tenant under this Lease in accordance with the terms of this Lease, including without limitation Section 10.3 below. During the Term, or any renewals thereof, Tenant shall also pay its Pro Rata Share of all Real Property Taxes and other fees as provided in Section 4.2. If the Tenant obligations under Section 4.1.2 or Section 10.2 are not fulfilled and Tenant fails to cure such failure within thirty (30) days following receipt of written notice thereof from Landlord, Landlord may at its option engage a reputable property management company on behalf of Tenant, to perform any or all of the services which are the responsibility of Tenant under this Lease. These charges will be Operating Costs charged to Tenant under Section 4.2 below. Tenant shall provide Landlord with evidence satisfactory to Landlord of payment of all such costs and expenses that are paid directly by Tenant.

4.2. Tenant's Operating Costs.

4.2.1.

(a) Commencing on the Rent Commencement Date, Tenant shall pay its pro-rata share of building operating expenses as Additional Rent, for Common Area Expenses, Insurance, Business Improvement District (BID) Taxes and similar taxes, and Real Property Taxes. Additional Rent shall be charged by Landlord monthly in addition to Minimum Rent and is based on budget projections for the next calendar year and will be delivered to client by December 1st of each year. At the end of each year, a reconciliation will be done by Landlord, whereby overages paid by Tenant will be refunded or additional charges billed to Tenant. Tenant reserves the right to review the calculation of Operating Expenses, Common Area Expenses and derivation of Additional Rent.

(b) Operating Expenses shall not include any of the following: (i) painting, redecorating or other work or improvements which Landlord performs for other tenants; (ii) ground rent; (iii) interest and amortization of funds borrowed by Landlord (except as specifically provided above); (iv) leasing commissions, and advertising, legal, space planning and construction expenses incurred in procuring tenants for the Building; (v) salaries, wages, or other compensation paid to officers or executives of Landlord in their capacities as officers and executives; (iv) penalties, interest or costs incurred due to late payment of taxes or violations by Landlord of any of the terms and conditions of any leases in the Project with respect to such tenant's leasable space (as opposed to Common Area) in the Project; (vii) costs attributable to enforcing leases against tenants in the Project, such as attorneys' fees, court costs, adverse judgments and similar expenses; (viii) repairs and other work occasioned by fire, or other casualty that is reimbursable under customary insurance policies maintained by other comparable landlords; (ix) any fines or penalties incurred due to violations by Landlord of any governmental rule or authority and the defense of same; (x) repairs and maintenance performed in any tenant's exclusive space that was solely for such tenant's exclusive space, and not for Project maintenance; (xi) costs incurred to cause the Building to comply with the Americans with Disabilities Act, as in effect on the date hereof, or any codes or regulations promulgated thereunder in effect on the date hereof, or any similar laws of any state, municipality or other governmental authority in effect on the date hereof (but specifically excluding costs associated with future additional obligations imposed by such laws); (xii) all costs hereunder that are otherwise actually reimbursed by warranties held by the Landlord; (xiii) design, engineering and construction costs of the Project to prepare it for leasing by Landlord; (xiv) costs relating to maintaining Landlord's existence, either as a corporation, partnership, or other entity, such as trustee's fees, annual fees, partnership organization or administration

expenses, deed recordation expenses, legal and accounting fees (other than with respect to Building operations); (xv) interest or penalties arising by reason of Landlord's failure to timely pay any Operating Expenses; (xvi) costs directly resulting from the gross negligence or willful misconduct of Landlord or its agents, contractors or employees; (xvii) any costs of defending lawsuits; (xviii) rent concessions to tenants and tenant improvement allowances; (xix) covered cost of repairs or replacements necessitated by the exercise of the power of eminent domain, or incurred by reason of fire or other insurable casualty; (xx) any costs of selling, financing or mortgaging Landlord's interest in the Project and any other expenses for which Landlord actually receives reimbursement from insurance, condemnation awards, or other tenants.

(c) "Real Property Taxes" shall mean all taxes, assessments and charges levied upon or with respect to the Building and any improvements adjacent thereto (computed as payable in installments as permitted by law regardless of whether so paid), including, without limitation, any tax, fee or excise on rents, on the square footage of the Premises, as a result of the location in the Building in any business improvement district or similar organization, on the act of entering into this Lease, on the occupancy of Tenant, on account of the rent hereunder or the business of renting space now or hereafter levied or assessed against Landlord by the United States of America, the District of Columbia, or any political subdivision, public corporation, district or other political or public entity, including any tax imposed by any business improvement district or similar entity; and shall also include any other tax to the extent that such tax is imposed in lieu of or in addition to such Real Property Taxes. Reasonable legal fees, costs and disbursements incurred by Landlord in connection with any proceedings for appeal or reduction of any Real Property Taxes shall also be considered Real Property Taxes for the year in question. Landlord and Tenant acknowledge and agree that Tenant shall pay the Premises' pro-rata share of real property taxes paid by the Condominium Association and assessed to unit owners as part of Operating Expenses. The term Real Property Taxes shall specifically exclude any capital levy, franchise, estate, inheritance, income, transfer or recordation taxes, as well as any abatements, reductions or credits received by Landlord. In the event any contest or appeal of the Real Property Taxes for any given year shall result in a refund of Real Property Taxes previously paid by Tenant, Tenant will receive a credit against Rent in the amount of its proportionate share of the net refund, inclusive of any interest received by Landlord by reason of the refund of Real Property Taxes (i.e., the net amount remaining after paying all costs and expenses of securing the refund, including reasonable attorney's fees). Tenant's obligation to pay Real Property Taxes shall in no event include penalties or interest imposed for late payment of Real Property Taxes or late or non-filing of income and expense reports, unless attributable to Tenant's failure to pay Landlord same. Landlord shall cooperate with Tenant in providing documentation and other such information reasonably requested by Tenant that would enable Tenant to recoup from the District of Columbia its Pro Rata Share of such Real Property Taxes.

(d) "Tenant's Pro Rata Share" shall be as provided in Section 1H. If the rentable square footage of the Premises shall be increased or decreased, Tenant's Pro Rata Share shall be adjusted accordingly.

(e) "Operating Costs" shall be an amount equal to the sum of Operating Expenses and Real Property Taxes during any Calendar Year.

4.2.2. For each Calendar Year or portion thereof during the Term, Tenant shall pay to Landlord as Additional Rent an amount equal to the product of (i) Operating Costs multiplied by (ii) Tenant's Pro Rata Share ("Tenant's Operating Costs"). By December 1st of each year, Landlord shall use reasonable efforts to furnish to Tenant a statement showing Landlord's reasonable estimate of Operating Costs and Tenant's Operating Costs for the next Calendar Year.

Commencing on the Rent Commencement Date and continuing on each monthly rent payment date thereafter, Tenant shall pay to Landlord one-twelfth (1/12) of the amount of Tenant's Operating Costs based on Landlord's estimated Operating Costs. With reasonable promptness after the expiration of each Calendar Year during the Term, Landlord shall furnish to Tenant a statement showing the actual Operating Expenses and Real Property Taxes. Within thirty (30) days after the receipt of such statement by Tenant, (i) Tenant shall, in case of an underpayment, pay to Landlord an amount equal to such underpayment or (ii) Landlord shall, in case of an overpayment, credit the next monthly rental payment by Tenant with an amount equal to such overpayment. If in any Calendar Year, this Lease shall commence on a day other than the first day of such Calendar Year or if this Lease shall terminate on a day other than the last day of such Calendar Year, the Operating Costs shall be prorated accordingly. Tenant reserves the right to review the calculation of Operating Costs, Common Area Expenses and derivation of Additional Rent. Landlord estimates the total Operating Costs to be \$12.00 per square foot of the Premises during the first lease year.

4.3. **Sales Reports.** Tenant will provide periodic sales reports to Landlord on request, to be maintained in confidence by Landlord. These reports may, however, be shared with potential financiers and/or purchasers of the property.

4.4. **Late Payment Charge/Interest.** All Rent shall be paid to Landlord without demand (except where otherwise expressly required), and without deduction, set-off or counterclaim as and when due. If Landlord shall at any time or times accept Rent after it becomes due and payable, such acceptance shall not excuse a subsequent delay or constitute a waiver of Landlord's rights hereunder. If any amount of Rent is not paid within five (5) days after the date such payment is due, then in addition to paying the amount of Rent then due, Tenant shall pay to Landlord a late charge (the "Late Charge") equal to five percent (5%) of the amount of Rent then required to be paid; moreover, such unpaid Rent shall bear interest from its due date at the rate of two percent (2%) in excess of the prime rate of interest of Bank of America, N.A., or its successor (the "Prime Rate"); provided however, that nothing contained in this Lease shall be construed or applied in such a manner as to allow Landlord to charge or receive interest in excess of the maximum legal rate then allowed by law. Such Late Charge and interest shall be paid within five (5) days of Landlord's demand therefor.

5. **SECURITY DEPOSIT.** Landlord hereby acknowledges receipt from Tenant of the Security Deposit (as such term is defined in Section 1I) at the time of execution of this Lease by Tenant as security for Tenant's faithful performance of Tenant's obligations hereunder. If Tenant fails to pay Rent, or otherwise commits a default, Landlord may use, apply or retain all or any portion of the Security Deposit for the payment of any Rent or other charge in default or for the payment of any other sum to which Landlord may become entitled by reason of Tenant's default, or to compensate Landlord for any loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Security Deposit, Tenant shall within ten (10) days after written demand therefor deposit cash with Landlord in an amount sufficient to restore the Security Deposit in full to the original amount and Tenant's failure to do so shall be a default under this Lease. Landlord may commingle the Security Deposit with its general accounts and any interest earned thereon shall accrue to the benefit of the Landlord. If Tenant performs all of Tenant's obligations hereunder, the Security Deposit or so much thereof as has not theretofore been applied by Landlord shall be returned, without payment of interest or other increment for its use, to Tenant within forty-five (45) days after the expiration of the Term, as extended, if applicable, or after Tenant has vacated the Premises, whichever is later. Tenant agrees that any Mortgagee of the Building who forecloses its lien on the Building or becomes a "mortgagee in possession" shall have no liability for the return of the Security Deposit unless such Mortgagee



actually receives the Security Deposit from Landlord (failing which, Landlord shall continue to have such liability to Tenant).

6. **ACCEPTANCE.** Tenant shall accept the Premises on the Early Access Date provided Landlord has provided Tenant at least 60-days' notice and the scope of Exhibit B-6 is substantially complete such that Tenant is able to commence work of the Tenant's Improvements in the Premises without material delays or interruptions by Landlord, recognizing that Landlord may still be working within the Premises to complete punch-list and other portions of the Landlord Improvements. The term "substantially complete" or "substantially completed" or words of similar import, as used in this Lease regarding any work or improvement, shall mean that the particular work or improvement has been completed, subject only to "punch list" items. Tenant's deemed acceptance shall be a conclusive acknowledgement on Tenant's part that the Premises is in good and tenantable condition, and that Tenant retains and accepts same in its "as is" condition, subject to the completion of the Landlord Improvements. Tenant shall, at Tenant's expense, complete any required improvements of the Premises other than the Landlord Improvements including, without limitation, installation of furniture, fixtures and equipment. Upon request of the Landlord, Tenant agrees to execute and deliver to Landlord the Tenant Acceptance and Estoppel Certificate set forth in Exhibit D attached hereto. The dates herein remain unaffected regardless of whether the Tenant executes Exhibit D. Upon the termination of this Lease, Tenant shall deliver the Premises to Landlord in the condition in which the Premises existed at the completion of the Tenant Improvements (as defined in Section 9.1.2.), subject to the provisions of Section 9, and reasonable wear and tear excepted.

## 7. **USE OF PREMISES AND OPERATION.**

7.1. **Permitted Use.** The Premises shall be used by Tenant solely for the Permitted Use described in Section 1L above, and for no other use whatsoever. Notwithstanding anything to the contrary whatsoever, the Premises shall not be used in violation of any of the exclusive or prohibited uses set forth on Exhibit F attached hereto and made a part hereof. The Premises shall be used in compliance with all applicable laws and regulations. Tenant understands and agrees that the Premises shall be used for no other purpose without the prior written consent of Landlord and that Landlord has absolute and arbitrary discretion as to approval of any proposed change of such use.

7.2. **Trade Name.** Tenant's Trade Name shall be as set forth in Section 1A. Tenant may not change its Trade Name without the prior written consent of Landlord, acting reasonably. Tenant's Trade Name shall be identified on a sign to be placed on the exterior of the Premises within thirty (30) days after Tenant opens for business in the Premises pursuant to the terms of Section 7.3. Tenant shall not display any other Trade Name without Landlord's prior written consent. This request will be responded to within ten (10) business days.

7.3. **Signs, Displays and Advertising.** No sign, advertisement or notice ("Sign") shall be inscribed, painted, affixed or displayed on the windows, doors, transoms or exterior walls of the Premises, on any public area of the Project or in any location within the Premises from which said Sign, lights or other forms of inscription, advertising or display devices may be readily seen from outside the Premises, except at locations designated by Landlord, subject to the approval of all applicable governmental or quasi-governmental authorities (the "Authorities"), and in accordance with any applicable laws or ordinances, and then only in such places, numbers, sizes, content, color and style as is approved by Landlord, the Authorities and any other entities holding rights of approval, and which conforms to all applicable laws and/or ordinances including without limitation any regulations or ordinances of the Authorities, and to standards for the Building

established by Landlord, including Landlord's Sign Criteria Manual set forth in Exhibit J attached hereto and made a part hereof (the "Landlord Sign Criteria Manual"), the Authorities, and other applicable parties holding approval rights. No Sign made of cloth, paper, stamp, sticker, decal or similar manufacture, or Sign employing running or flashing lights or noise-making devices, or Sign etched, affixed or hung in front of or on any part of the storefront glazing system shall be used without Landlord's prior written approval. If any Sign does not conform to the provisions of this Section 7.3, then Landlord shall have the right to remove the Sign and Tenant shall be liable for any and all reasonable out-of-pocket expenses incurred by Landlord, as Additional Rent, for such removal or for the repair of any damage caused by the Sign or caused by the Sign's removal. Any permitted sign, advertisement or notice, including, but not limited to, all costs of obtaining any necessary permits therefor, shall be at the sole expense of Tenant. It is further agreed that Tenant shall not use sidewalks, parking areas and alleys for displays, wares or Sign of any kind, nor shall Tenant conduct any "discount" or "going out of business" sales or operations.

7.4. Manner of Operation. Tenant shall operate its business in a manner commensurate with the service, dignity, image and ambiance of similar first-class establishments with services comparable to those permitted hereunder located in similar first-class projects in the Washington, D.C. metropolitan area and commensurate with the standards of buildings in the Project. Tenant's operation of its business shall not adversely affect either the first-class reputation of the Project. Tenant shall receive all deliveries through the route designated on Exhibit G attached hereto and incorporated herein by this reference (the "Trash Removal/Delivery Route"). All deliveries shall be made in a manner which does not inhibit the flow of vehicular or pedestrian traffic. No deliveries shall be made during any hours which are prohibited by rules imposed by or on Landlord as a result of the requirements of the Authorities, any advisory neighborhood commission or any other governmental or quasi-governmental entity. Landlord will endeavor to take Tenant's interests into account when negotiating this matter with the applicable entity. Tenant shall be allowed to accept deliveries and bring them to and from the Premises in its designated loading area shown on Exhibit G along the Trash Removal/Delivery Route. Hours for delivery shall be provided to Tenant prior to the Commencement Date. Furthermore, Tenant's delivery vehicles shall not block the entrances to the Project. Tenant will use best efforts to keep delivery vehicles making deliveries to the Premises from double parking. Landlord reserves the right to require Tenant to correct any deviation from the standards required under this Lease. Tenant shall comply with all requirements of the Retail Tenant Sustainability Requirements and Guidelines on Exhibit K attached hereto and made a part hereof.

7.5. Covenant of Continuous Operation. Tenant hereby covenants and warrants that on or before the Rent Commencement Date it shall open and thereafter be continuously open for and be engaged in the Permitted Use and the normal course of a District of Columbia Public Charter School (DCPCS) with similar operations in Washington, D.C., and Tenant shall operate for business from the Premises during at least Minimum Business Hours (hereinafter defined), except as expressly permitted otherwise pursuant to the following terms of this Section 7.5. Notwithstanding any provision herein or Landlord's rules and regulations to the contrary, for purposes of this Lease, the term "Minimum Business Hours" shall mean the hours of 8 a.m. to 6 p.m., Monday through Friday, except holidays. Notwithstanding the foregoing, Tenant may close for holidays and vacations commensurate with its school calendar, plus weather-related closures.

7.6. Restrictions on Use. Tenant agrees (i) not to damage or commit waste on the Premises, (ii) not to use the Premises for any unlawful purpose or in violation of any municipal laws or regulations, insurance requirements or any certificate(s) of occupancy, and (iii) not to

suffer any dangerous article to be brought on the Premises unless safeguarded as required by law. Tenant agrees not to permit any odors, vibrations or noises to emanate outside the Premises. Except for typical recreation noise from children using the Recreation Area, sound, noise levels and vibrations from inside the Premises shall be at a conversational level, not be audible or discernible at a level above a conversational level in the common areas of the Building or outside in the Common Areas, and not be audible or discernible at all in any other tenant's or occupant's premises in the Building and shall otherwise comply with the terms of this Lease and all governmental rules or regulations. Landlord will allow that sound from non-amplified musical instruments or stereo or other electronic systems playing music are permitted so long as they are not at a volume that would disturb other occupants of the building or neighborhood. In the event such odors, vibrations or noises do so emanate, Landlord may take such actions as it deems necessary, in its sole discretion, to prevent such emanation of odors, vibrations or noises, and Tenant shall be liable for any reasonable out-of-pocket third-party expenses incurred by Landlord for such attempts at preventing the emanating odors, vibrations or noises, as Additional Rent. Tenant shall not allow any nuisances, public or private, in the Premises or any use of the Premises which is a source of annoyance, disturbance or embarrassment to Landlord or which is deemed by Landlord as not in keeping with the character of the neighborhood or the Project. The Premises shall not be used for any unlawful, immoral or improper purpose.

7.6.1. During the Term hereof, Landlord agrees that Tenant shall be entitled to play recorded music only in the Premises during all hours that the Premises is open for business; provided, however, (i) Tenant shall comply with all applicable governmental laws, regulations and ordinances relating to noise, vibrations or music emanating from the Premises; (ii) if Landlord determines in its sole reasonable discretion that such music, vibrations and/or noise is emanating from the Premises and such music, vibrations and/or noise could reasonably be disturbing to other tenants of the Building, occupants of adjacent buildings or the public in general, then, upon notice thereof from Landlord, Tenant shall immediately adjust the music in the Premises to a level satisfactory to Landlord (in its reasonable discretion); (iii) if on more than two (2) instances in any sixty (60) day period, such music, vibrations and/or noise is emanating from the Premises and such music, vibrations and/or noise could reasonably be disturbing to other tenants of the Building, occupants of adjacent buildings or the public in general, then, upon notice from Landlord, Tenant shall either limit or cease playing music or engaging in the noise or vibration producing activity in the Premises and Tenant's right to play music or engage in the noise or vibration producing activity in the Premises for the remainder of the Term shall immediately terminate; (iv) any speakers used in connection with amplified or recorded music shall be located at least ten (10) feet from, and be directed in the opposite direction of, all walls, doors and windows in the Leased Premises, and music produced by any sound recording shall not exceed 60 dBAs, as measured from any point within three (3) feet from the inside perimeter walls of the Premises; and (v) Tenant shall obtain and maintain all licenses necessary in connection with the playing of recorded music inside the Premises. Notwithstanding any other provision contained herein to the contrary, and in addition to the limitations described above, under no circumstances shall Tenant permit any live musical acts (other than children performing in the ordinary course of operations) to perform in the Premises. Landlord shall have access to the Premises at all times for purposes of monitoring the sound levels produced within the Premises to enforce compliance with this Section 7.6.1 provided that Landlord does not unreasonably interfere with Tenant's business conducted therein. This Section 7.6.1 shall in no way limit the restrictions on sound, noise levels and vibrations in Section 7.6 above, and Landlord shall be entitled to pursue any and all remedies against Tenant available to Landlord for the violation thereof.

7.7. Material Effect. Tenant acknowledges that the value of the Building depends in part upon Tenant's compliance with the high standards of operation and the restrictions on use set forth herein and that Tenant's failure to comply with such standards in any material respect shall, at Landlord's option, constitute a default under this Lease.

7.8. Insurance Restrictions on Use. Tenant will not conduct or permit to be conducted any activity or place any equipment or property in or about the Premises or the Project, which will, in any way, invalidate or which may make void or voidable the insurance coverage in effect or which will materially increase the rate of fire insurance or other insurance on the Project or the Premises. If any invalidation of coverage or material increase in the rate of fire or other insurance is stated by any insurance company or by the applicable Insurance Rating Bureau to be due to any activity or equipment of Tenant in or about the Premises or the Project, such statement shall be conclusive evidence that the material increase in such rate is due to such activity or equipment and Tenant shall be responsible for payment of all costs and expenses related to such adjustment or increase in insurance coverage. Without limiting the generality of the foregoing, Tenant shall not keep gasoline or any other dangerous, inflammable, toxic, hazardous or explosive material in the Premises. Tenant agrees to conform to all rules and regulations from time to time established by the applicable Insurance Rating Bureau.

7.9. Radius Restriction. Tenant covenants and agrees that, for the period commencing on the date of this Lease, and continuing through the expiration of the Term, neither Tenant nor any person, firm or other entity that directly or indirectly controls Tenant, or is directly or indirectly controlled by Tenant, or is connected or affiliated with Tenant, including, without limitation, any affiliate, subsidiary, guarantor, principal, franchisee, executive officer, director, licensor or licensee (the foregoing persons and entities hereinafter collectively referred to as "Affiliates"), shall own, operate, manage, franchise, license, maintain or have any affiliation, right, title, interest or investment, either directly or indirectly, in any business, store or other establishment that is: (i) the same as, similar to, or in competition with the Tenant's business in the Premises as described above, (such same, similar or competing business hereinafter referred to as a "Violating Business"); and (ii) located within any building, structure or building complex which is located on land, any portion of which land is within the "Primary Trade Area" which shall mean the area shown on Exhibit L attached hereto and incorporated herein by this reference.

If Tenant shall violate this Section 7.9 the Landlord shall have all rights and remedies available to it including without limitation injunctive relief.

7.10. Recreation. Tenant may utilize the outdoor Recreation Area at no additional rent. The Recreation Area is outlined in Exhibit A. The Recreation Area as of Lease signing has not been fully designed but shall be designed to be appropriate for children ages three to five. During the hours of 7 am – 6 pm Monday through Friday ("Normal Operating Hours"), Tenant shall have exclusive use of the Recreation Area, without any obligation to pay Rent therefor. Landlord shall be responsible for cleaning, repairing, maintaining, and insuring the Recreation Area, and these costs shall be reimbursed as Common Area Maintenance. The percentage share for Recreation Area Expenses shall be 59.52% for the Tenant and 40.48% for Landlord.

Additionally, Tenant and Landlord agree on the following rules for the Recreation Area: (i) neither Tenant's customers nor residential tenants are permitted to use the Recreation Area prior to 8 am, (ii) neither Landlord nor Tenant shall permit pets in the Recreation Area, and (iii) high heeled shoes shall not be permitted in the Recreation Area, should a soft recreation surface be installed.

7.11. Pick-up and Drop-Off. Tenant may utilize the pick-up and drop-off zone on the private drive (shown on Exhibit A-1) only during the designated period of time of 7:00 am to 9:30 am and 3:00 pm to 6:00 pm on days in which the school is in session. At all other times, parents/caregivers dropping off children by vehicle must utilize the parking designated in the underground garage for short-term pick-up and drop-off. As a requirement of using the pickup and drop off zone, AppleTree will sufficiently staff the pick-up and drop-off zone to ensure that parents and/or caregivers do not leave their vehicles. Parents and/or caregivers will not be allowed to park and bring the children into the school from the pick-up and drop-off zone. In the event that either 1) the pickup and drop off zone is not sufficiently staffed or 2) Parents are not complying with the provision by leaving vehicles in this zone unattended, then Landlord will exercise remedies including prohibiting any pick-up and drop-off along on the Private Drive.

## **8. SUBLETTING AND ASSIGNMENT.**

### **8.1. Prohibition Against Subletting and Assignment Without Consent.**

8.1.1. Tenant will not (i) sublet any or all of the Premises or transfer possession or occupancy thereof to any person, firm or corporation (including, without limitation, concessionaires or licensees of Tenant), or (ii) transfer, assign, mortgage or encumber this Lease, without in each instance the prior written consent of Landlord, which consent will not be unreasonably withheld, delayed or conditioned, provided the proposed sublease or assignment satisfies the conditions set forth in this Section 8.1.2 in all respects. Upon Tenant's providing Landlord with notification to sublease and/or assign the Premises should the assignee or sublessee not meet the requirements of section 8.1.2, Landlord reserves the right to take back possession of the proposed subleased or assigned space. In such event, this Lease shall terminate for the space taken back by Landlord. Except as otherwise specifically provided herein, no subletting or assignment hereof shall be affected by merger, by liquidation, by operation of law or otherwise except with the prior written consent of the Landlord, which consent shall not be unreasonably withheld, delayed or conditioned as long as the assignee satisfies the conditions set forth in Section 8.1.2. Any attempted transfer, assignment, subletting, license or concession agreement or hypothecation without Landlord's consent shall be void and confer no rights upon any third party. If, without Landlord's prior written consent, there shall be an attempted assignment or subletting or if the Premises shall be occupied by anybody other than Tenant, whether as a result of act or omission by Tenant, Landlord's refusal of consent, by operation of law or otherwise, Landlord, may, in addition to, and not in diminution of or substitution for, any other rights and remedies under this Lease or pursuant to law to which Landlord may be entitled as a result thereof, if it so elects, terminate this Lease by giving the Tenant at least thirty (30) days' prior written notice, unless Tenant cures the default within such 30-day period. This Lease shall expire and come to an end with the same force and effect as if such date were originally set forth in this Lease for expiration of the Term. In such event, Tenant agrees Landlord shall have the absolute right, with no consent required from Tenant, to re-let the Premises for its own account to Tenant's prospective assignee, subtenant, or occupant at such rentals and upon such other terms and conditions as Landlord shall desire or to collect rent from the proposed assignee, subtenant or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, the acceptance of the assignee, subtenant or occupant as a tenant, or a release of Tenant hereunder from the further performance by Tenant of the Tenant's covenants herein contained for which Tenant shall remain jointly, severally and fully liable.

8.1.2. Landlord's consent to a sublease or an assignment under this Section 8 may be conditioned upon the following: (i) the proposed subtenant or assignee's use of the Premises is consistent with the permitted use under this Lease and for no other purpose (ii) the proposed subtenant or assignee is of good reputation and character (iii) the proposed tenant is also a recognized charter school by the District of Columbia Public Charter School Board (iv) the proposed subtenant or assignee has over \$5,000,000 of net worth and is capable of fulfilling the financial obligations of the lease (as evidenced by certified financial statements supplied by such proposed subtenant or assignee and/or its guarantor to Landlord) including posting a replacement lease guaranty in the form and amounts required by Tenant according to the Lease Guaranty at the time of assignment, (vi) the proposed subtenant or assignee does not have diplomatic or sovereign immunity, and is not a federal, state or local governmental agency; (vii) and the proposed subtenant or assignee does not intend to use the Premises for a Prohibited Activity (as hereinafter defined). A "Prohibited Activity" for purposes of this provision shall include uses which will, in Landlord's reasonable judgment: (a) place a strain on the existing plumbing, electrical and mechanical systems, or (b) generate unusually high densities of employees per square foot of rentable space, including without limitation the following: electronic data processing, photographic multilith or multigraph reproduction (except in connection with Tenant's own business), a banking and trust company, a depository or safe deposit, a savings bank, a savings and loan association or loan company, the sale of travelers checks, money orders or foreign exchange, or the sale of securities to the general public, a medical or dental office, an employment agency, an executive search firm or a vocational training center; or (d) operate any use which is not a first-class retail use generally found in premiere mixed use urban projects. A day-care is deemed a first-class retail use. In addition, Tenant may not advertise space or assign the Lease or sublease space at a rental rate which is less than is being quoted by Landlord, unless approved by Landlord. If Landlord shall consent to an assignment or sublease, then Tenant shall have forty-five (45) days from the date of Landlord's consent to effectuate such assignment or sublease according to the terms of this Lease; provided, however, if such permitted assignment or sublease is not completed by Tenant and its assignee or subtenant within such forty-five (45) day period, then such Landlord's consent shall be deemed null and void. In the event of a sublease, assignment or other transfer, Tenant shall pay reasonable out-of-pocket legal fees and other reasonable third-party costs incurred by Landlord in connection therewith within 45 days of receiving invoices.

8.2. Limitations on Consent. If Landlord shall consent to any requested transfer, assignment, sublease, hypothecation, license and/or concession ("Transfer"), such consent shall be deemed a consent to that particular transaction only and shall not be deemed consent to any other or future Transfer, as the case may be. Any permitted Transfer shall be expressly subject to each and every term, covenant and condition of this Lease, unless otherwise specifically provided by Landlord in writing, and Tenant shall remain jointly, severally and fully liable and obligated under all of such terms, covenants and conditions.

8.3. Effect of Merger or Assignment of Interest. If Tenant is a closely held corporation, unincorporated association or partnership, and Tenant shall, without the prior written consent of Landlord, transfer or assign any stock or interest in such corporation, association or partnership so as to result in a change in the control thereof by the person, persons or entities owning a controlling interest therein as of the date of this Lease, such transfer or assignment shall be considered an assignment hereunder and shall be subject to the terms and conditions of this Section 8. The mere receipt and/or acceptance by Landlord of rent from a party other than Tenant shall not be deemed actual notice of any change in control or ownership of Tenant.

8.4. Obligations of Permitted Subtenant or Assignee. In the event an assignment or sublease is permitted under this Lease, it shall be upon the express condition, inter alia, that the

assignee or subtenant shall execute and deliver to Landlord (i) a duplicate original instrument of assignment or sublease in form and substance reasonably satisfactory to Landlord, duly executed by Tenant and (ii) an agreement in form and substance satisfactory to Landlord, duly executed by the assignee or subtenant, whereby the assignee or subtenant shall unconditionally assume observance and performance of and agree to be personally bound by all of the terms, covenants and conditions of this Lease on Tenant's part to be performed and observed including, without limitation, the provisions of this Section 8. Notwithstanding the execution of such agreement by the assignee or subtenant, however, the original Tenant shall remain jointly and severally liable for all of the terms, covenants and conditions of this Lease and any guarantees given by the Guarantor listed in Section 1K (collectively, "Guarantor") in connection with this Lease shall continue in full force and effect, unless replaced by a guaranty of equal or greater value.

**8.5. Income from Sublease or Assignment.** If Landlord shall consent to any assignment or sublease under this Section 8, it shall be upon the express condition that Tenant shall pay Landlord, as Additional Rent, fifty percent (50%) of any Additional Net Rental Income (as hereinafter defined) derived from such assignment or sublease (after first deducting any brokerage, legal and advertising costs incurred by Tenant in connection with such assignment or sublease) commencing on the effective date of such assignment or sublease. "Additional Net Rental Income" shall mean (i) as to a sublease, the difference between all rent (including, without limitation, Rent) paid by a subtenant and all Rent owed by Tenant to Landlord and (ii) as to an assignee, that portion of any assignment fee which is attributable to the fair market rental rate for a lease for substantially equivalent first-class retail space within the Washington, D.C. metropolitan area ("Market Rate"), which exceeds Rent due and payable hereunder. However, in no event shall the rent paid to Landlord pursuant to the foregoing formula be less than the aggregate Rent due hereunder.

## **9. TENANT'S ALTERATIONS.**

### **9.1. Alterations.**

9.1.1. Tenant shall not, without Landlord's prior written consent, which consent will not be unreasonably withheld, delayed or conditioned and without the consent of the Authorities or any applicable parties with rights to consent to such alterations, do any construction work or make any alterations, modifications or changes, structural or otherwise, including the Tenant Improvements (as defined in Section 9.1.2.), to any part of the, including, but not limited to, painting the exterior, ceilings and window and wall coverings, or any alteration that would involve obtaining a permit from the Department of Consumer and Regulatory Affairs (a "Permit") or impact the exterior of the building (collectively, the "Alterations"). Without limiting the generality of the foregoing, any Alterations to the exterior of the Premises approved by Landlord must be consistent with then currently existing finishes on the Project. Tenant shall perform all work in a first-class manner using first class materials. Any non-structural alterations or improvements made after the initial improvements requiring a Permit, that impact the exterior of the building, or any structural improvements shall require Landlord's consent, which shall not be unreasonably withheld or delayed.

9.1.2. The planning, design and construction of the leasehold improvements in connection with the initial build-out of the Premises (the "Tenant Improvements") shall be conducted in accordance with this Section 9 and the Work Agreement. Tenant shall be open for business pursuant to Section 7 as promptly as possible but in any event not later than the Rent Commencement Date. Landlord shall have the right to terminate this Lease by notice to Tenant if Landlord does not approve Tenant's Plan (as defined in the Work Agreement) and if Tenant

fails to correct such changes within thirty (30) days after reasonably requested by Landlord, if the Tenant Improvements would not be first-class or would detract from the value of the Project as a whole. The Tenant's Plan shall include details of Tenant's decor, fixtures and furnishings, shall be subject to Landlord's reasonable approval.

9.1.3. With respect to all Alterations (including the Tenant Improvements, but not the Landlord Improvements), Landlord may condition its consent upon (i) Tenant's delivery to Landlord of a policy or policies of worker's compensation, liability and property damage insurance, naming Landlord, Property Manager, project owners, and Lenders as additional insureds with respect to such liability insurance, in limits and with companies reasonably acceptable to Landlord, (with respect to limits, major contractors, such as mechanical, electrical and plumbing, shall be required to maintain liability and property damage insurance coverage in an amount not less than \$5,000,000.00; the coverage required of other service contractors shall be in limits acceptable to Landlord) and (ii) Tenant's obtaining and maintaining, at Tenant's expense, all necessary permits, approvals and licenses from any municipal authorities in connection with the Alterations. In the event of any such approved Alterations, Tenant shall have all work done at its own expense. Request for such consent shall be accompanied by plans and specifications stating in detail precisely what is to be done. Tenant and Tenant's architects, engineers, contractors and subcontractors shall be certified and licensed to do business in the District of Columbia, shall not be retained without Landlord's written approval, which approval shall not be unreasonably withheld, delayed or conditioned and shall comply with the building codes, regulations and laws now or hereafter to be made or enforced in the District of Columbia and which pertain to such work, including, but not limited to, the Americans with Disabilities Act. All Alterations to the Premises shall be made and performed under the supervision of the above-referenced professional(s), in accordance with the plans and specifications therefor as previously approved by Landlord in writing, all applicable requirements of insurance policies and any deeds of trust and building loan agreements, including, without limitation, leasehold deeds of trust and spreaders and consolidation agreements, which may now or hereafter affect the Building provided that copies of such documents have been provided to Tenant (individually, "Mortgage" and collectively, the "Mortgages"), the other requirements of this Section 9, and the Rules and Regulations (as defined in Section 17). No approval by Landlord of plans and specifications or consent by Landlord to the performance of any Alterations shall be deemed to be an agreement by Landlord that the contemplated Alterations comply with the certificate(s) of occupancy for the Premises or any requirement of any insurance policies or Mortgages or to be a waiver by Landlord of Tenant's compliance with any of the terms of this Lease.

9.1.4. Notwithstanding anything to the contrary contained herein, after the Tenant Improvements have been approved by Landlord and completed by Tenant, Tenant shall have the right to make Cosmetic Alterations to the Premises and to replace equipment with equipment of equal or lower utility consumption according to manufacturer's specifications without Landlord's consent. "Cosmetic Alterations" shall mean nonstructural Alterations in or to the Premises (e.g., changes to paint, wall paper, carpet or fixtures) which are not readily visible from the street, which are consistent with the design standards of the Tenant Improvements previously approved by Landlord, which do not affect the structure or systems of the Building and which cost less than \$30,000.00. Tenant shall, however, certify to Landlord in writing prior to making Alterations that the proposed Alterations are Cosmetic Alterations, describing the same in detail and if Landlord determines, in its reasonable discretion, that the proposed Alterations are not Cosmetic Alterations, Tenant shall apply for Landlord's consent for such Alterations in accordance with this Section 9.



9.2. Additional Conditions To Landlord's Consent. Neither Landlord, Landlord's agents nor any Mortgagee shall be liable for any labor or materials furnished or to be furnished to Tenant on credit, and no mechanic's or other lien for labor or materials shall attach to or affect any estate or interest of Landlord or of any Mortgagee in and to the Building. Tenant shall remove or bond any mechanic's or materialmen's liens within ten (10) days of the filing thereof. All materials and equipment to be incorporated in the Premises as a result of any Alterations shall be new (or like new or reconditioned) and first quality (except that first-quality reconditioned food service equipment may be used at Tenant's reasonable discretion) and (other than furniture, furnishings, office equipment and other personal property not affixed to the Premises) shall not be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement. Landlord may further condition its consent upon Tenant's delivering to Landlord (i) a performance bond and a labor and materials payment bond issued by a surety company in form, substance and amount satisfactory to Landlord, or (ii) such other security as shall be satisfactory to Landlord. Tenant shall use appropriate labor forces (i.e., union if necessary) in connection with such Alterations, which shall not cause any strikes, walk outs, work stoppages or labor disputes in connection with any work being performed in the Building or elsewhere by the Landlord, by affiliates of Landlord or by any other tenant of the Building. In the event any contractor, subcontractor or material supplier involved in the construction of any Alterations shall cause any strike, walk out, work stoppage or labor dispute, Tenant shall cause such contractor, subcontractor or material supplier to be removed from performing any work or supplying any materials to or for the benefit of the Premises. Tenant shall indemnify and save Landlord harmless from and against all expenses, liens, claims or damages to either property or person which may or might arise by reason of the making of any such Alterations, including without limitation reasonable attorneys' fees.

9.3. Alteration Without Consent; "As Built" Plans. Unless otherwise agreed by Landlord when it grants consent to Tenant for their construction, any Alterations made by Tenant (except items permitted to be removed by Tenant under this Section 9) shall become and remain a part of the Building and be and remain Landlord's property upon the termination of Tenant's occupancy of the Premises; provided, however, that Landlord may by written notice at the expiration or other termination of this Lease require Tenant to remove any Alterations (other than Cosmetic Alterations) made to the Premises by Tenant without Landlord's consent and restore such portion of the Premises to their condition as of the completion of the Tenant Improvements, ordinary wear and tear excepted. In addition, if any Alteration (other than Cosmetic Alterations) is made without the prior written consent of Landlord, Landlord may correct or remove the Alteration at Tenant's expense. Following completion of any Alterations (other than Cosmetic Alterations), Tenant shall deliver to Landlord a complete set of "as built" plans showing the Alterations, or if such plans are not delivered shall reimburse Landlord for any expense incurred by Landlord in causing the Building's plans to be modified to reflect the Alterations. Any and all sums due to Landlord from Tenant under this Section 9.3. shall be deemed Additional Rent.

## **10. SERVICES, REPAIRS, UTILITIES AND CLEANING.**

10.1. Landlord's Maintenance Obligations. Prior to Rent Commencement of the Premises, Landlord shall pay all fees, charges, and assessments which are due and payable with respect to the Building. Landlord covenants and agrees with Tenant that Landlord shall only be required to make or cause to be made such improvements or repairs or replacements as may be required for normal maintenance in a manner consistent with comparable first class mixed use projects in the Washington DC metropolitan area of (i) the structural portions of the Building, including the roof, entry door, and store front and building systems included in the Landlord

Improvements, and (ii) the public areas and service areas of the Building; provided, however, that (a) any damage thereto caused by any act of negligence of Tenant, its employees, agents, invitees, licensees or contractors, or (b) any structural changes necessary, in whole or in part, as a result of any Alterations made by Tenant or as a result of any use made of the Premises by Tenant which is different from or more hazardous than the Permitted Use shall be made at Tenant's expense. This Section 10.1 shall not create any obligation of Landlord to repair any damage by fire or other casualty (Landlord's obligations with respect to casualty being addressed in Section 14), and Landlord shall be obligated to make only the repairs specified in this Section 10.1. Landlord and Tenant acknowledge and agree that other than as set forth in this Section 10.1 Landlord has no obligation to provide operational, maintenance, management or repair services other than Landlord's obligation to enforce its rights as the owner of the Building in the event of a default which affects the Premises.

10.2. Tenant's Maintenance Obligations. Subject to Landlord's rights under Section 4.1.2., the Tenant agrees, at its sole expense, (i) to maintain the Premises in a manner consistent with other comparable first-class child care and early childhood education facilities, in a clean and safe condition and in good repair, including, without limitation, the floors, interior walls, ceiling, exterior and interior doors, windows, plumbing lines from the Premises to the sewer main, fixtures, equipment, all heating, ventilating, air conditioning and meters for all utilities located within and/or serving the Premises, (ii) to maintain and clean all interior and exterior doors, window and plate glass in or about the Premises and to replace the same when damaged or broken, (iii) to maintain any exterior signs, lighting and awnings, permitted pursuant to the terms hereof. Tenant shall be responsible for any waste product recycling required by law or LEED certification, and (iv) and to make all non-structural repairs, replacements, renewals and additions as may be required to keep and maintain the Premises and the systems serving the Premises, including HVAC. Tenant shall keep the Premises and all such equipment and fixtures in good repair, in clean, safe and sanitary condition and shall suffer no waste or injury thereto. Tenant shall surrender the Premises at the expiration or other termination of this Lease broom clean, with all furniture and personal property removed, and shall surrender the Premises and all equipment, fixtures and other property therein in the same condition in which they are on the Rent Commencement Date, ordinary wear and tear excepted. Tenant also agrees to repair any damage to the common areas of the Project caused by the operation of its business in or about the Premises, (including, without limitation, moving in and out of the Premises) except for ordinary wear and tear including without limitation any damage to loading areas caused by the operation of delivery vans, trucks or vehicles servicing Tenant's business or the Premises.

10.3. Utilities. Tenant shall be responsible for and shall pay all charges when due for all water, electricity, heat, air conditioning, water and sewer, and any other utility or energy charges and taxes incurred by or on behalf of Tenant or in connection with the use of the Premises as a direct charge from the utility provider to Tenant or charge under a submeter as more particularly described on the Final Utility Location Plan (defined below). Except as set forth on Schedule B-1 to the Work Agreement, Landlord shall be under no obligation to arrange for or to supply any utilities or other services to Tenant on the Premises. Utility meters and sub-meters shall be installed as set forth in the Work Agreement and the Final Utility Location Plan attached hereto as Exhibit A-4 (the "Final Utility Location Plan"). Tenant shall maintain, repair and replace, at Tenant's expense, any such utility meters and/or submeters and related equipment in good order and repair. In the event Tenant does not pay such utility charges when due, Landlord shall have the right, but not the obligation, to pay said charges, and Tenant shall reimburse Landlord therefor as Additional Rent. Landlord shall have no liability to Tenant or any other person for any loss, damage, expense, or inconvenience which Tenant may sustain or incur by reason of any failure, interruption, curtailment, cessation, inadequacy or defect in the character, quantity or

supply of the utilities furnished to the Premises or the failure of any heating, ventilating or air conditioning equipment, except where the same is due to the gross negligence or willful misconduct of Landlord, its agents, employees, contractors or invitees. Provided, however, Tenant shall be entitled to an equitable adjustment in Annual Minimum Rent during periods in which services required to be furnished by Landlord are not provided for a period of ten (10) consecutive days or more.

10.4. Governmental Requirements. If any public utility or governmental body shall require Landlord or Tenant to restrict the consumption of any utility or reduce any service for the Premises or the Building, Landlord and Tenant shall comply with such requirements whether or not the utilities and services referred to in this Section 10 are thereby reduced or otherwise affected, without any reduction or adjustment of Rent hereunder.

10.5. Cleaning and Trash. Tenant will keep the Premises, trash collection area, loading dock, hallways, passageways, tree boxes, sidewalks and common areas, including the Recreation Area, providing access to and adjoining the Premises in a clean, orderly and sanitary condition and free of insects, rodents, vermin, other pests, trash and dirt accumulations generated by the operations in the Premises and shall clean and wash the interior and exterior of the windows of the Premises to the reasonable satisfaction of the Landlord consistent with the standards applicable to a first-class mixed use building in the Washington, D.C. metropolitan area. Tenant shall remove all refuse from the Premises at the expense of Tenant on a daily basis via the Trash Removal/Delivery Route and to the areas designated by Landlord, as shown on Exhibit G. Tenant shall, at its expense, clean up any trash, waste or spillage and repair any damage on the Trash Removal/Delivery Route that results from Tenant's use of the Trash Removal/Delivery Route. Landlord will arrange for removal of the refuse from the loading dock on schedules established by Landlord in its reasonable discretion from a trash hauler on Landlord's approved vendor list as provided by Landlord from time to time and Tenant shall reimburse Landlord for the actual cost, without markup, of such removal based upon pro-rata share based on Tenant's utilization. Tenant at its expense, must provide containers for all dry refuse and wet garbage at all times and store the same in a manner so as to prevent the emanation of odors therefrom into the Premises or the Project. Tenant shall not store trash or refuse in, or permit trash, rubbish, cartons, merchandise or other goods intended for use in the Premises to accumulate in, service corridors, hallways, loading docks, common areas or other areas outside of the Premises other than in the designated areas. All recycling shall be placed in the areas designated by Landlord. Landlord may remove and dispose of items left outside the Premises. Landlord shall not be responsible or liable to Tenant as a result of any such removal or disposal. The cost of maintenance and upkeep of Landlord's trash collection facilities will be included in the Operating Costs of which Tenant will pay its proportionate share based on usage in accordance with Section 4. Tenant shall ensure that the areas adjoining or providing access to the Premises (including, without limitation, hallways, passageways, sidewalks, plaza areas and any other common areas) are kept clean of wrappers, garbage, trash and similar debris.

10.6. Removal of Trash. Tenant shall arrange for regular, prompt, and reliable trash and recycling removal of all trash and recycling generated at or associated with the Premises from the Premises, at Tenant's expense, using containers and dumpsters approved by Landlord and at such times in such manner, and in such locations, as approved by Landlord. Landlord reserves the right to refuse to collect or accept, as appropriate, from Tenant any waste materials that are not separated and sorted as required by law, and to require Tenant to arrange for such collection at Tenant's sole cost and expense, with a contractor acceptable to Landlord. Tenant shall pay all costs, expenses, fines, penalties or damages that may be imposed on Landlord or Tenant by reason of Tenant's failure to comply with this regulation, and Tenant shall indemnify

Landlord (including its reasonable legal fees and expenses) from and against any actions or claims arising from Tenant's noncompliance. All costs for said removal will be the responsibility of the Tenant. Tenant shall use reasonable means and methods to limit the disturbance, including but not limited to sound, smell, access, and visual disturbance, to other adjacent site users and residents. Landlord will include Tenant's trash collection as an operational cost of the Building and bill Tenant for its pro-rata share of the total trash expense based on usage.

10.7. Security Services. Landlord shall furnish building appropriate security services for the Project (not for Tenant or the Premises) in such a manner as Landlord, in its sole discretion, deems necessary and/or appropriate to provide a high-quality mixed-use environment. Tenant expressly acknowledges that: (a) Landlord's security service shall in no way limit Tenant's obligation to secure the Premises and Tenant's personnel and personal property and (b) no warranty is given (express or implied) to prevent any loss, damage or injury by virtue of Landlord's election to provide security services. Landlord shall not be liable to Tenant or any party acting by or through Tenant for any criminal acts of others or any loss or damage of any kind or nature relating to Landlord's election to provide security services, not to provide security services or any decisions as to the scope or type of security services which are provided by Landlord.

10.8 Rent Abatement. In the event that Tenant is prevented from accessing or using, in any material respect, the Premises for a seven (7) consecutive day period (the "Eligibility Period") as a result of a force majeure event, then all Annual Minimum Rent payable under this Lease shall be abated after expiration of the Eligibility Period for such time that Tenant continues to be prevented from accessing or using, in any material respect, the Premises.

## 11. **RIGHTS OF LANDLORD.**

11.1. The Landlord reserves the following rights:

- (a) To change the name of the Building without notice or liability to the Tenant;
- (b) To have pass keys to the Premises
- (c) To grant to anyone the exclusive right to conduct any particular business or undertaking in the Project, provided, however, that only Tenant shall have the exclusive right to conduct a child care and early childhood education facility and no grant of a purportedly exclusive right to any other tenant shall divest the Tenant of the right to offer or sell any services or products that Tenant is permitted to offer or sell at the time of the grant;
- (d) To enter the Premises upon reasonable prior notice (no less than twenty-four (24) hours in advance) during Tenant's normal business hours for inspection or at any time in the event of any emergency; to supply any service to be provided by Landlord hereunder or to gain access to water or electrical closets or HVAC or elevator equipment; to submit the Premises upon reasonable notice to prospective purchasers, Mortgagees or tenants; to post notices of non-responsibility; to affix and display "For Rent" signs during the last twelve (12) months of the Term only; and to make repairs, alterations, additions or improvements to the Premises or the Building; and
- (e) To close common areas within the Project for community and specialty events and to decorate the Project in connection with such events; provided Tenant receives prior written notice of the event.

11.2. Without limiting the generality of the provisions of Section 11.1, Landlord shall have the right to remove, alter, improve or rebuild all or any portion of the Building. In connection with making repairs, alterations, additions and improvements under the terms of this Section 11.2, Landlord shall have the right upon prior written notice to Tenant except in the event of an emergency in which case no prior notice shall be required, to access through the Premises as well as the right to take into, upon and through the Premises, including without limitation any electrical or water closet serving the Building, all materials that may be required to make such repairs, alterations, additions or improvements, as well as the right in the course of such work to close entrances, doors, corridors, elevators or other Building facilities or temporarily to abate the operations of such facilities without being deemed or held guilty of an eviction of Tenant, so long as the business of Tenant shall not be materially interfered with, and Landlord shall reimburse Tenant for all reasonable out-of-pocket expenses incurred in relocating its staff and children and providing its services elsewhere during the period of interruption.

11.3. Landlord shall have the right to use any and all means which Landlord may deem proper to open all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, in any emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of the means shall not be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from any or all of the Premises.

11.4. Landlord shall have the right (but not the obligation) to fulfill Tenant's obligations with respect to the maintenance and repair of the building in the event Tenant defaults on its obligations to do same and after the expiration of appropriate notice from Landlord and Tenant's failure to cure. In such event, Landlord shall add his reasonable out-of-pocket third-party cost so incurred to the next monthly installment of rental due.

11.5. Notwithstanding the foregoing, Landlord shall use reasonable efforts to minimize interference with Tenant's operations in connection with the exercise by Landlord of any of its rights pursuant to this Section 11.

11.6. Landlord shall have the right to change the address of the Building. Landlord will notify Tenant within 30 days of said change.

## **12. LIABILITY OF PARTIES.**

12.1. Landlord shall not be liable to Tenant, its employees, agents, contractors, business invitees, licensees, customers, clients, family members or guests, and Tenant, on its own behalf and on behalf of the classes of people identified in this sentence, hereby waives all claims against Landlord for any entry into the Premises, or for any damage, compensation or claim to or by any person or property in or about the Premises or the approaches, entrances, streets, sidewalks or corridors thereto, by or from any cause whatsoever, including without limitation, damage caused by any defect in the Building or Premises, or by water leakage of any character from the roof, walls, basement or other portion of the Premises or the Building, or caused by gas, fire, oil, electricity or any cause whatsoever in, on, or about the Premises or the Building or any part thereof, unless any of the foregoing is caused by the gross negligence or willful misconduct of Landlord. Landlord shall indemnify and hold Tenant harmless from and against any and all out-of-pocket third-party costs, damages, claims, liability or reasonable expense (including reasonable attorneys' fees) actually incurred by Tenant or claimed against Tenant as a result of Landlord's gross negligence or willful misconduct. Tenant shall immediately notify Landlord of any defective condition in or about the Premises. Landlord shall not be liable and Tenant hereby waives all

claims for damages that may be caused by Landlord in reentering and taking possession of the Premises as herein provided.

12.2. Tenant agrees to indemnify and hold Landlord harmless from and against any and all out-of-pocket costs, damages, claims, liability, or reasonable expenses (including reasonable attorney's fees) actually incurred by or claimed against Landlord, (i) for any injury or damage to any person or property whatsoever, occurring in, on or about all or any of the Premises, or occurring in, on or about the Building or any facilities thereof (including, without limitation, lobbies, elevators, stairways, passageways or hallways), the use of which Tenant may have in conjunction with other tenants of the Building, when such injury or damage shall be caused in part or in whole by the neglect, fault, act, or omission of any duty with respect to the same by (i) the negligence of Tenant, its employees, agents or contractors, business invitees, licensees, customers, clients, family members and guests, or (ii) as a result of or in any way arising from Tenant's use and occupancy of the Premises. Any such out-of-pocket costs, damages, claims, liability or expense incurred by Landlord for which Tenant is obligated to reimburse Landlord hereunder shall be deemed Additional Rent.

### 13. INSURANCE.

13.1. Tenant shall maintain at all times during the Term and at its sole cost and expense Commercial General Liability insurance for bodily injury and property damage naming Landlord as an additional insured, in such amounts as are set forth below. Such insurance at all times shall be in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate and business automobile liability insurance coverage for owned, non-owned and hired vehicles with a limit of One Million and 00/100 Dollars (\$1,000,000.00) per accident. Tenant shall also maintain at all times during the Term and at its sole cost and expense Statutory Worker's Compensation and Employers' Liability with a policy limit of no less than \$500,000. In addition, Tenant shall be required to carry umbrella/excess coverage with limits of at least Three Million and 00/100 Dollars (\$3,000,000) per occurrence. In addition, if Tenant sells or dispenses alcoholic beverages at the Premises, Tenant shall maintain "dram shop" insurance limits of not less than One Million Dollars (\$1,000,000) per occurrence. If, in the opinion of the insurance broker retained by Landlord, the Commercial General Liability coverage at that time is not adequate, Tenant shall increase the insurance coverage as required by Landlord's insurance broker provided such coverage increases are similarly required by prudent landlords of similar projects in Washington, D.C. In no event shall the limits of such policy be considered as limiting the liability of Tenant under this Lease.

13.2. Tenant shall at all times during the Term maintain All Risk or Special Cause of Loss Insurance or its equivalent form for the full insurable replacement value of all Tenant's contents, including furniture, fixtures, equipment, personal property or other removable property, or any improvements made by the Tenant under the provisions of this Lease. The proceeds of such insurance shall be used for the repair or replacement of the property so insured. The Tenant shall also carry Business Interruption insurance including Loss of Rents with a limit of no less than 12 months' rent.

13.3. .

13.4. All insurance required to be carried by Tenant shall be issued by responsible insurance companies, qualified to do business in the District of Columbia and with an A.M. Best rating of at least A-VIII, and otherwise reasonably acceptable to Landlord. Each policy shall name

Landlord, Property Manager, project owners, Lenders and any other parties in interest designated in writing by Landlord as additional insureds and shall contain a provision that the same may not be canceled or reduced without providing Landlord not less than thirty (30) days prior written notice. Copies of all policies or certificates evidencing the existence and amounts of such insurance shall be delivered to Landlord no later than five (5) days prior to the Commencement Date, and renewals thereof shall be delivered to Landlord at least ten (10) days prior to the expiration of any such policy. If Tenant fails to adhere to the requirements of this Section 13 following ten (10) days' notice to Tenant, Landlord may order such insurance at Tenant's expense and such amount shall be payable by Tenant upon demand. Tenant's failure to provide and keep in force the insurance required under Section 13 beyond any applicable notice and cure period shall be regarded as a Default, entitling Landlord to exercise any or all of the remedies provided in this Lease. Any policy may be carried under so-called "blanket coverage" form of insurance policies. If Tenant's policies cover Tenant's locations other than the Premises, the insurance limits set out above shall apply separately to the Premises.

13.5. Landlord and Tenant each hereby waive any and all rights of recovery against each other and the officers, directors, partners, shareholders, members, managers, employees, agents and representatives of such other party for loss of or damage to such waiving party or its property or the property of others under its control, arising from any cause insured against under any policy of insurance carried by such waiving party. Landlord and Tenant shall obtain and furnish evidence to each other of the waiver by such party's insurance carriers of any right of subrogation against the other party.

13.6. Landlord and Tenant acknowledge that: (i) Landlord shall maintain at all times during the Term and at its sole cost and expense, comprehensive liability insurance for bodily injury, (ii) casualty insurance will be carried, and (iii) Tenant will insure property damage to Tenant's Personal Property (as defined herein) and Tenant's Improvements in the Premises. Landlord's liability insurance shall not insure against liability incurred by Tenant in connection with Tenant's use or operation of the Premises nor shall such insurance serve as a substitute for or in addition to Tenant's required insurance as set forth in this Section 13.6.

#### 14. DAMAGE.

14.1. Casualty Damage. If the Premises shall be partially or totally damaged or destroyed by any risk covered by the insurance maintained under Section 13.6(ii) above, then Landlord shall, as soon as practicable after such damage occurs (taking into account the time necessary to effectuate a satisfactory settlement with any insurance company and reasonable delay on account of Force Majeure) in connection with the repair or rebuilding of the Premises to the extent of the condition of the Premises on the Commencement Date; provided, however, that all or a portion of the insurance proceeds may be paid to Mortgagees in which event the insurance proceeds available to the Landlord to repair or rebuild shall be reduced by the amount of the insurance proceeds paid to any Mortgagees.

14.2. Tenant's Personal Property. Notwithstanding anything to the contrary herein contained, in no event shall Landlord be required to repair, restore or rebuild any portions of the Premises constituting a part of the Tenant Improvements, other tenant work, or Tenant's equipment, trade fixtures or other personal property (collectively, "Personal Property"), all of which shall be rebuilt or replaced by Tenant at Tenant's sole expense to the same extent as Tenant was initially required to construct improvements in the Premises.

14.3. Termination. Notwithstanding anything to the contrary contained herein, if the Premises are rendered wholly untenantable by fire or other cause and Landlord shall decide not to rebuild the same, or if the Building is so damaged that Landlord shall decide that substantial reconstruction is required, then, or in any of such events, Landlord may cancel and terminate this Lease by giving Tenant written notice within sixty (60) days from the date of such damage, whereupon this Lease shall cease and determine upon the tenth (10th) day after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord. In the event the Premises is rendered untenantable under this Section 14, Landlord will notify Tenant within sixty (60) days after the casualty of Landlord's architect's estimate of the duration of the restoration of the Premises (the "Restoration Estimate"). If such untenability cannot in the reasonable judgment of Landlord's architect be substantially cured within one hundred eighty (180) days of its occurrence then Tenant may, at its option, terminate this Lease by written notice to Landlord delivered within ten (10) days of Tenant's receipt of Landlord's notice. In addition, in such event, Landlord may, at its option, within sixty (60) days after the casualty, terminate this Lease by written notice to Tenant

14.4. No Liability. No compensation or reduction of Rent shall be paid or allowed by Landlord for inconvenience, annoyance, or injury to Tenant's business arising from the need to repair the Premises or the Building unless due to the gross negligence or willful misconduct of Landlord or its agents. Landlord shall not be liable for any damages (including, without limitation, business interruption) that may be suffered by reason of any casualty to the Premises, or the Building and/or Landlord's or Tenant's repairing or rebuilding thereof and/or the deprivation of Tenant's use and possession of the Premises unless due to the gross negligence or willful misconduct of Landlord or its agents. Notwithstanding the foregoing, if all or any portion of the Premises is rendered untenantable and provided that such casualty is not caused by the negligence or intentional misconduct of Tenant, its agents, servants, employees, contractors or suppliers, then Minimum Base Rent shall be abated to the extent Tenant's operations are rendered impractical by such damage until the end of such period of untenability.

14.5. Damage By Tenant. Notwithstanding any other provisions of this Lease which may limit Tenant's responsibility for repair, replacement or maintenance of items which are within and serve the Premises, all injury to the Premises or the Building caused by moving the property of Tenant into or out of the Building and all damage and breakage done by Tenant or the agents, servants, employees, invitees, visitors or guests of Tenant shall be repaired by Tenant, at the sole expense of Tenant, unless covered by Landlord's insurance. If Tenant shall fail to do so after written notice from Landlord, then Landlord shall have the right to make necessary repairs, alterations and replacements (structural, nonstructural or otherwise) and any charge or cost so incurred by Landlord shall be paid by Tenant. This provision shall be construed as an additional remedy granted to the Landlord and not in limitation of any other rights or remedies which the Landlord has or may have in such circumstances.

## 15. EMINENT DOMAIN.

15.1. Compensation. If all or part of the Building shall be taken by any governmental or quasi-governmental authority pursuant to the power of eminent domain or deed in lieu thereof, then (i) Tenant agrees to make no claim for compensation in the proceedings and hereby assigns to Landlord any rights which Tenant may have to any portion of any award made as a result of such taking, (ii) this Lease shall terminate as to the portion of the Premises taken by the condemning authority and (iii) Annual Minimum Rent shall be adjusted (based upon the proportion of floor area in the Premises so taken) to such date. Tenant may terminate this Lease if the taking exceeds more than 67% of the Recreation Area or exceeds more than thirty percent



(30%) of the floor area in the Premises and Landlord has elected not to rebuild. The foregoing notwithstanding, Tenant shall be entitled to claim, prove and receive in the condemnation proceedings such awards as may be allowed for relocation expenses and for fixtures and other equipment installed by it which shall not, under the terms of this Lease, be or become the property of Landlord at the termination hereof, but only if such awards shall be made by the condemnation court in addition to and not in diminution of the award to Landlord and is stated separately from the award made by the condemnation court for the Building or part thereof so taken.

#### 15.2. Substantial Taking.

15.2.1. If the nature, location or extent of any proposed condemnation affecting the Building is such that all or a substantial part of the Building, thirty percent (30%) of the floor area of the Premises or 67% of the Recreation Area shall be affected, then Landlord or Tenant may, at its sole discretion, terminate this Lease by giving at least sixty (60) days' written notice of termination to the other party at any time after such condemnation and this Lease shall terminate on the date specified in such notice.

15.2.2. If a portion of the Premises which is not a substantial portion of the Premises is taken or condemned and neither Landlord or Tenant elects to terminate this Lease, then the Annual Minimum Rent shall be equitably adjusted as of the date title vests in the condemning authority and this Lease shall otherwise continue in full force and effect. If a portion of the Building other than the Premises is taken or condemned and if the Lease is not terminated pursuant to Section 15.2.1, then this Lease will continue in full force and effect. For purposes of this Section 15, a substantial part of the Premises or of the Building, as the case may be, shall be considered to have been taken or condemned (i) if either 67% of the Recreation Area shall be taken or thirty percent (30%) or more of the Premises or the Building, as the case may be, is taken or condemned or (ii) if, in the sole opinion of Landlord, the taking or condemnation shall render it commercially undesirable for Landlord to permit this Lease to continue or to continue operating the Building.

#### 16. **SUBORDINATION, NON-DISTURBANCE AND ESTOPPEL CERTIFICATES.**

16.1. This Lease and the rights of Tenant hereunder shall be subject and subordinate at all times to (i) all ground or underlying leases which now exist or may hereafter be executed affecting all or any of the Project (the "Superior Leases"); (ii) all Mortgages; (iii) any and each advance made or to be made under the Mortgages; and (iv) any and all amendments, modifications, supplements, renewals, substitutions, refinancings and extensions of the Superior Leases and Mortgage without Tenant's execution of any further instruments. Notwithstanding the foregoing, however, upon ten (10) days prior notice, Tenant will execute and deliver any written instrument, in recordable form if requested, evidencing such subordination as may be requested by Landlord, a Mortgagee or the lessor under a Superior Lease ("Superior Lessor"), provided that such Mortgagee or Superior Lessor agrees not to disturb Tenant's tenancy hereunder. In the event of termination of any Superior Lease or Mortgage, Tenant shall, at the option of the successor in interest to Landlord, be and become Tenant of such successor in interest, and shall attorn to such successor in interest, and shall, at the request of such successor in interest, enter into a new lease for the balance of the term hereof then remaining on the same terms and conditions as are in this Lease contained provided such successor agrees to execute a non-disturbance agreement in the form customarily required by such Mortgagee or Superior Lessor.

16.2. Tenant agrees, at any time, and from time to time, upon not less than ten (10) days prior notice by Landlord, to execute, acknowledge and deliver to Landlord, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the dates to which Rent, Additional Rent and other charges have been paid, stating whether or not to the best knowledge of the signer of such certificate, Landlord is in default in performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default of which the signer may have knowledge, and such other information as Landlord may reasonably require, it being intended that any such statement delivered pursuant to this Section 16.2 may be relied upon by any prospective purchaser or lessee of all or any of the Building, any Mortgagee or prospective Mortgagee thereof, or any prospective assignee of any Mortgage thereof. Tenant also agrees to execute and deliver from time to time such estoppel certificates as a Mortgagee may require with respect to this Lease.

17. **RULES AND REGULATIONS.** Tenant covenants and agrees on behalf of itself, its agents, employees, invitees, and contractors to comply with the Rules and Regulations, attached hereto as Exhibit C, and such other and further rules and regulations as the Landlord may make of general applicability to the Project (and not just to Tenant or its use of the Premises) and which in the Landlord's reasonable judgment are needed for the general well-being, safety, care and cleanliness of the Project. All rules and regulations that may be enforced by the Landlord against the Tenant shall be reasonable and of general applicability. The Landlord shall use its reasonable efforts to enforce all of the rules and regulations of the Building against other tenants in the Building whose breach of such rules and regulations materially and adversely affect the use of the Premises or of the Common Areas by Tenant, its employees, customers and invitees. Tenant shall be notified in writing of any alleged breach by the Tenant of the rules and regulations.

#### 18. **BANKRUPTCY.**

18.1. Acts of Bankruptcy. Tenant agrees that in the event that (i) Tenant shall be adjudicated bankrupt or adjudged to be insolvent, (ii) Tenant shall file or acquiesce in a petition in any court in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings, (iii) Tenant shall make an assignment or other conveyance in trust for the benefit of its creditors, (iv) any execution or attachment shall be issued against Tenant or Tenant's property whereupon the Premises shall be taken, occupied or attempted to be taken or occupied by someone other than Tenant and such execution or attachment shall not be dismissed, vacated, discharged or bonded within thirty (30) days after issuance of same, or (v) a receiver or trustee shall be appointed for the property and assets of the Tenant and such receivership shall not be discharged within twenty (20) days from the date of such appointment (collectively, "Act of Bankruptcy"), the Term shall, at the option of the Landlord, cease and terminate, it being expressly agreed that the covenant contained in Section 8 against the assignment of this Lease shall cover the case of the assignment of this Lease by operation of law as well as the assignment of this Lease by a voluntary act of the Tenant.

18.2. Requirement to Vacate. If this Lease shall be so cancelled and terminated as set forth in Section 18.1., neither Tenant nor any person claiming through or under Tenant by virtue of any statute or order of any court shall be entitled to remain in possession of the Premises but shall immediately quit and surrender the Premises. In no event, without the prior written approval of Landlord, at Landlord's sole discretion, shall this Lease be or be considered to be an asset of Tenant's or any of the Guarantor's estate in bankruptcy or insolvency or of any receiver or trustee ("Trustee") with respect thereto.

18.3. Legal Restrictions. To the extent that Landlord's right to cancel this Lease in accordance with the provisions of Sections 18.1. and 18.2. is invalid or unenforceable under the U.S. Bankruptcy Code, as the same may be amended from time to time (the "Act"), or any other statute or rule of law, then the following provisions shall apply to the extent valid and enforceable:

(i) If there has been a Default by Tenant under any provision of this Lease (other than this Section 18), the Trustee (as such term is defined in the Act) may not assume this Lease, unless, at the time of assumption of this Lease, the Trustee:

(a) cures or provides adequate assurance (to Landlord's reasonable satisfaction) that the Trustee will promptly cure such Default; and

(b) provides adequate assurance (to Landlord's reasonable satisfaction) of future performance under the Lease, which shall include, without limitation, adequate assurances of the source of rent and other consideration due under such Lease and satisfaction of the conditions set forth in Section 8.1.2.

(ii) If there has been a Default by Tenant, the Trustee may not require the Landlord to provide services or supplies incidental to this Lease before assumption of this Lease unless the Landlord is compensated under the terms of this Lease for any services and supplies provided under this Lease before assumption of this Lease. (If no Trustee is appointed under the Act, the foregoing provisions will nevertheless apply to the extent permitted under the Act.)

If this Lease is terminated under the provisions of this Section 18, or by reason of rejection by the Trustee (or by the bankruptcy court, if no Trustee is appointed), Landlord shall be entitled to the recovery of damages and such other remedies as are provided for in this Lease. The foregoing sentence shall not, however, limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or arrangement proceeding an amount equal to the maximum allowed by the Act or any other statute or rule of law governing such proceedings and in effect at the time when such damages are to be proved, whether or not such amount be greater, equal to or less than the amount of the excess referred to in the preceding sentence.

## 19. DEFAULTS.

19.1. Defaults. A default under this Lease shall be defined as the occurrence of any one or more of the following events ("Default"):

(i) If Tenant shall refuse to take possession of the Premises on the Commencement Date and shall fail to cure such refusal for a period of thirty (30) days or more following receipt of written notice thereof from Landlord;

(ii) If Tenant shall vacate the Premises and permit the same to remain unoccupied and unattended for a period of thirty (30) days or more, or shall remove, not in the ordinary course of business, Tenant's Personal Property from or out of the Premises, without first having satisfied Landlord for all Rent which may or have become due during the Term;

(iii) If Tenant shall not continuously operate its business pursuant to Section 7 and shall fail to cure same within thirty (30) days following written notice from Landlord;

(iv) If any execution, levy, attachment or other process of law shall occur upon Tenant's goods, fixtures or interest in the Premises with the exception of the automatic stay provisions of the Act and Tenant fails to terminate such execution, levy or attachment within thirty (30) days;

(v) If an Act of Bankruptcy occurs pursuant to the terms of Section 18;

(vi) If Tenant shall attempt to assign this Lease or to sublease all or a portion of the Premises without Landlord's written consent in violation of Section 8 and Tenant shall fail to cure same within the period provided in Section 8;

(vii) If Tenant shall fail to pay Rent, when the same shall become due and payable, and such failure shall continue for five (5) business days following Tenant's receipt of written notice thereof from Landlord;

(viii) If Tenant shall fail to submit any plans for construction of the Tenant Improvements at such time that said plans are required to be submitted to Landlord for Landlord's review and approval and such failure continues for a period of thirty (30) days following Tenant's receipt of written notice thereof from Landlord;

(ix) If Tenant shall fail to perform or observe any other term, provision, covenant, condition or requirement of this Lease (not hereinbefore specifically referred to) on the part of Tenant to be performed or observed, and such failure shall continue for thirty (30) days after written notice from Landlord (except that such thirty (30) day period shall be extended for such additional period of time as may reasonably be necessary to cure such Default up to but not to exceed sixty (60) days, provided such Default, by its nature, cannot be cured within such thirty (30) day period, and provided further that Tenant commences to cure such Default within such thirty (30) day period and is, at all times thereafter, in the process of diligently curing the same);

(x) If Tenant shall cause or suffer two (2) monetary defaults with respect to which Landlord gives Tenant written notice thereof within any one (1) Lease Year, notwithstanding any subsequent cure of any such monetary default;

(xi) Any default by Guarantor under the Guaranty, including, without limitation, Guarantor's failure to comply with Section 10 thereof;

(xii) Tenant's failure to timely provide additional security in accordance with Section 10 of the Guaranty if such failure continues for thirty (30) days following receipt of written notice thereof from Landlord; or

(xiii) Landlord's failure to perform any material term, provision, covenant or requirement of this Lease within thirty (30) days following receipt of written notice thereof from Tenant, except that such 30-day day period shall be extended for such additional period of time as may be reasonably necessary to cure such failure provided that Landlord exercises commercially reasonable efforts to commence to cure such failure within such 30-day period and diligently prosecutes such curative efforts thereafter.

19.2. Consequences. Upon the happening of any Default by Tenant, this Lease shall, at Landlord's option, cease and terminate and shall operate as a notice to quit, any written notice to quit being hereby expressly waived. Landlord may proceed to recover possession of the Premises by virtue of any legal process as may at the time be in operation and force in like cases relative

to proceedings between landlords and tenants, and Tenant shall pay for any and all reasonable costs in connection with the foregoing, including, without limitation, all court costs relative to such proceedings and reasonable attorneys' fees, or Landlord may, at Landlord's option, re-enter and re-rent the Premises for the account of the Tenant, and in such event, Tenant shall remain liable to Landlord for any and all deficiencies in the Rent under this Lease (including, without limitation, the Rent for the unexpired portion of the Term). If Tenant cures a non-monetary default with respect to which Landlord delivers written notice thereof within the applicable grace period but then creates or permits the same non-monetary default to reoccur within six (6) months of the prior non-monetary default, then, in such event, all grace periods applicable to that default shall be eliminated so that Landlord may terminate this Lease effective upon the sending of written notice to Tenant.

## **20. REMEDIES.**

20.1. Upon the occurrence of a Default by Tenant, in addition to any other right or remedy provided at law, in equity, under this Lease or otherwise, Landlord shall have the right, at its discretion, then or at any time thereafter either:

(i) To give Tenant written notice of Landlord's intent to terminate this Lease on the date of the notice or on any later date specified in the notice, and on such date Tenant's right to possession of the Premises shall cease and this Lease shall thereupon be terminated; or

(ii) Without demand or notice, to reenter and take possession of all or any part of the Premises, to expel Tenant and those claiming through Tenant, and to remove the property of Tenant and any other person, either by summary proceedings or by action at law, in equity or otherwise, without being deemed guilty of trespass and without prejudice to any remedies for nonpayment or late payment of rent for breach of covenant.

20.2. If Landlord elects to reenter, Landlord may terminate this Lease, or, from time to time without terminating this Lease, may re-let all or any part of the Premises as agent for Tenant for such term(s), and at such rental and upon such other terms and conditions as Landlord may deem acceptable, with the right of Landlord to make alterations and repairs to the Premises. No such reentry or taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless notice of such intention is given to Tenant under Section 20.1.(i) above or unless the termination is decreed by a court of competent jurisdiction at the insistence of Landlord. Landlord shall in no event be under any obligation to re-let all or any part of the Premises. Notwithstanding the foregoing, should Landlord take possession of the Premises after a Default by Tenant, Landlord shall use reasonable commercial efforts to try to mitigate its damages by trying to re-let the Premises upon such terms as Landlord, in its sole, but reasonable judgment, deems advisable, but in no event shall Landlord be required (a) to market the Premises in a way other than Landlord's standard methods of marketing vacant space or (b) to incur any expenses in connection with improvements to the Premises in order to increase the marketability of the Premises.

20.3. If Landlord terminates this Lease or reenters the Premises, Tenant shall remain liable for: (i) any unpaid Rent due at the time of termination, plus interest thereon from the due date at the rate of two percent (2%) above the Prime Rate; provided, however, that if such interest is limited by law to a lesser amount, Landlord shall be entitled to the maximum amount of interest permitted by law; (ii) Rent until the Termination Date; (iii) any and all expenses (including, without limitation, all reasonable attorneys' fees, disbursements and brokerage fees) incurred by Landlord in reentering and repossessing the Premises, in making good any Default by Tenant, in

demolishing the Tenant's existing build-out, painting, altering, repairing or dividing the Premises, in protecting and preserving the Premises by use of watchmen and caretakers and in reletting the Premises, allowances for tenant improvements for the successor tenant; and (iv) any other amount necessary to compensate Landlord for any other detriment incurred by Landlord due to Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would likely result therefrom, less (v) the net proceeds received by Landlord from any reletting prior to the date this Lease would have expired if it had not been terminated. Tenant agrees to pay to Landlord the amount so owed above for each month during the Term at the beginning of each such month. Any suit brought by Landlord to enforce collection of such amount for any one month shall not prejudice Landlord's right to enforce the collection of any such amount for any subsequent month. In addition to the foregoing, and without regard to whether this Lease has been terminated, Tenant shall pay to Landlord all reasonable out-of-pocket third-party costs incurred by Landlord, including, without limitation, reasonable attorneys' fees, with respect to any lawsuit or action instituted or taken by Landlord to enforce the provisions of this Lease. Tenant's liability shall survive the institution of summary proceedings and the issuance of a warrant or writ thereunder.

20.4. Tenant, on its own behalf and on behalf of all persons claiming through Tenant, including, without limitation, all creditors, does hereby waive any and all rights and privileges, so far as is permitted by law, which Tenant and all such persons might otherwise have under any present or future law: (i) to redeem the Premises; (ii) to reenter or repossess the Premises; or (iii) to restore the operation of this Lease, with respect to any dispossession of Tenant by judgment, warrant or writ of any court or judge, any reentry by Landlord, or any expiration or termination of this Lease, whether such dispossession, reentry, expiration or termination of this Lease shall be by operation of law or pursuant to the provisions of this Lease. The words "dispossession," "reenter," "reentry" and "reentered" as used in this Lease shall not be deemed to be restricted to their technical legal meanings.

20.5. In the event of any breach by Tenant or any persons claiming through Tenant of any of the provisions contained in this Lease, Landlord shall be entitled to enjoin such breach and shall have the right to invoke any right or remedy allowed at law, in equity, or otherwise, as if reentry, summary proceedings or other specific remedies were not provided for in this Lease.

20.6. Landlord hereby waives and releases any landlord lien or right of distress for rent and /or lien against Tenant's Personal Property.

20.7. All rights and remedies of Landlord under this Lease shall be cumulative and shall not be exclusive of any other rights and remedies provided to Landlord now or hereafter existing under law.

20.8. In the event that this Lease is terminated by notice and the Tenant shall thereafter seek protection under the Act or any equivalent state bankruptcy laws or regulations, then the Tenant (if a debtor-in-possession) agrees to consent to any application by the Landlord to terminate the automatic stay provisions of the Act on the grounds that there is no equity in the Lease as a result of the pre-petition termination notice.

20.9. If Landlord defaults in its obligations set forth in this Lease, Tenant shall be entitled to pursue any and all remedies available at law or equity.

20.10. If Tenant exercises its rights under the Collateral Assignment of Lease and provides Landlord with customary evidence of Tenant's right to recover the articles bearing its

trademarks, Tenant, if in possession will not prohibit or obstruct entry. In the event that Landlord, has exercised its right to re-take the Premises, Landlord will allow Tenant to recover articles bearing its trademarks with at least 48 hours' notice.

**21. VOLUNTARY SURRENDER.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

**22. ABANDONMENT OF PERSONAL PROPERTY.** In the event of termination of this Lease in any manner whatsoever, Tenant shall immediately remove Tenant's goods and effects and those of any other persons claiming under Tenant, or subtenancies assigned to it, and quit and deliver the Premises to the Landlord peaceably and quietly. Goods and effects not removed by Tenant, as requested by Landlord, after termination of this Lease (or within five (5) days after a termination by reason of Tenant's Default) shall be considered abandoned. Landlord shall give Tenant notice of right to reclaim abandoned property pursuant to applicable local law and may thereafter dispose of the same as it deems expedient, including storage in a public warehouse or elsewhere at the cost and for the account of Tenant, but Tenant shall promptly upon demand reimburse Landlord for any expenses incurred by Landlord in connection therewith, including reasonable attorney's fees. Tenant's liability hereunder shall survive termination of this Lease. In the event Tenant abandons any personal property at the Premises, such property will automatically become the property of Landlord and may be disposed of by Landlord in its sole discretion, without any right of reimbursement therefor to Tenant.

**23. HOLD-OVER.** If Tenant shall not immediately surrender the Premises at the expiration of the Term, then (i) Tenant shall, by virtue of the provisions of this Section 23, become a tenant by the month at two (2) times the amount of Rent then in effect plus any Additional Rent that may be payable under this Lease, commencing such monthly tenancy with the first day next after the end of the Term; and (ii) Tenant, as a monthly tenant, shall be subject to all of the conditions and covenants of this Lease as though the same had originally been a monthly tenancy, except as otherwise provided above with respect to the payment of Rent. Each party shall give to the other at least thirty (30) days' written notice to quit the Premises, except in the event of non-payment of Rent when due, or of the breach of any other covenant by Tenant or a default, in which event, Tenant shall not be entitled to any notice to quit, the usual thirty (30) days' notice to quit being expressly waived. Provided, however, that in the event that Tenant shall hold over after expiration of the Term and if Landlord shall desire to regain possession of the Premises promptly at the expiration of the Term, then at any time prior to the acceptance of the rent by Landlord from Tenant, as a monthly tenant hereunder, Landlord, at its election or option, may re-enter and take possession of the Premises forthwith, without process, or by any legal action or process in force in the jurisdiction where the Premises is located.

**24. NOTICES.** Any and all notices, demands, requests, approvals, consents or other instruments required or permitted herein shall be in writing served (i) personally, (ii) by certified mail, return receipt requested, or (iii) by guaranteed overnight courier, at the addresses provided in Section 1J above. If served personally, service shall be conclusively deemed made at the time of such delivery. If served by certified mail, service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States mail, postage prepaid, pursuant to this Section 24. If served by overnight courier, service shall be conclusively deemed made one (1) business day after delivery to such courier. Either party may specify a different address according to the terms of this Section 24.

25. **QUIET ENJOYMENT.** Landlord covenants that, if Tenant is not in Default hereunder, Tenant shall at all times during the Term peaceably and quietly have, hold and enjoy the Premises without any interruption or disturbance from Landlord, subject to the terms of this Lease and to the rights of the parties presently or hereinafter secured by any Mortgages or Superior Leases.

26. **MISCELLANEOUS PROVISIONS.**

26.1. **Time of the Essence.** Time is of the essence with respect to this Lease and each of its provisions.

26.2. **Waiver.** The waiver by Landlord or Tenant of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition on any prior or subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

26.3. **Modification.** This Lease and the Exhibits attached hereto constitute the entire agreement between the parties and supersede any prior agreements or understandings between them. The provisions of this Lease may not be modified in any way except by written agreement signed by both parties. Modifications of the Lease during the first two Lease Years, must be approved by Tenant. Tenant shall reasonably approve the Lease modification, and shall have ten (10) business days to review and respond to the notice requesting modification of the Lease. If a response does not occur by the end of the tenth business day, the request will be deemed to have been approved by Tenant

26.4. **Applicable Law.** This Lease shall be subject to and construed in accordance with the laws of the District of Columbia.

26.5. **Brokerage.** Landlord and Tenant each represents and warrants that there were no brokers involved in carrying on any negotiations relating to this Lease and shall each indemnify and hold harmless the other from any claim for brokerage or other commission arising from or out of any breach of the foregoing representation and warranty.

26.6. **Successors and Assigns; Transfer of Landlord's Interest.** Except as expressly otherwise provided in this Lease, all of the provisions of this Lease shall bind and inure to the benefit of the parties and to their heirs, successors, representatives, executors, administrators, transferees and assigns as permitted. The term "Landlord" shall mean only the owner at the time in question of the Building or of a lease of the Building, so that in the event of any transfer or transfers of title to the Building or of Landlord's interest in a lease of the Building, the transferor shall be and hereby is relieved and freed of all obligations of Landlord under this Lease accruing after such transfer, and it shall be deemed, without further agreement, that such transferee has assumed and agreed to perform and observe all obligations of Landlord herein during the period it is the holder of landlord's interest under this Lease. Landlord shall also cause such transferee to expressly assume Landlord's obligations under this Lease. In any event, Tenant shall look only to Landlord's estate and property in the Building and the land on which it is located for satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder, and no other property or assets of Landlord or its partners, principals, members, shareholders,



representatives or agents, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder, or Tenant's use or occupancy of the Premises.

26.7. Waiver of Jury Trial. Landlord and Tenant waive all right to trial by jury in any claim, action, proceeding or counterclaim by either party against the other of any matters arising out of or in any way connected with this Lease or Tenant's use or occupancy of the Premises.

26.8. Business Days. The term "business day" or "business days" as used herein shall mean each day of the week except Saturdays, Sundays and federal holidays.

26.9. Payment of Tenant's Obligations by Landlord. All covenants and agreements to be performed by Tenant under any of the terms of this Lease shall be performed by Tenant at Tenant's sole cost and expense. If Tenant shall fail to pay any sum of money, other than Rent, required to be paid by it hereunder or shall fail to perform any other act on its part to be performed hereunder, and such failure shall continue beyond any applicable grace period set forth in this Lease, Landlord may, without waiving or releasing Tenant from any obligations of Tenant, make any such payment or perform any such other act on Tenant's part. All sums so paid by Landlord and all necessary incidental costs, together with interest per annum thereon at two percentage points (2%) over the Prime Rate (unless a different interest rate is otherwise specifically provided in the Lease with respect thereto), from the date of such payment by Landlord shall be payable to Landlord as Additional Rent hereunder, on demand, and Tenant covenants and agrees to pay any such sums. Landlord shall have (in addition to any other right or remedy of Landlord) the same rights and remedies in the event of the nonpayment thereof by Tenant as in the case of default by Tenant in the payment of the Rent.

26.10. No Recordation. Neither this Lease nor any memorandum hereof may be recorded without the express written consent of Landlord, which may be withheld in Landlord's sole discretion.

27. **LIMITATION OF LIABILITY BY REASON OF FORCE MAJEURE.** In the event that either party hereto is delayed or hindered in or prevented from the performance of any act required by reason of terrorism, strikes, labor troubles, floods, storms, inclement weather in excess of the customary inclement weather for the geographic area given the season in question, material shortages, government restrictions, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing such act, the time for performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, inclement weather in excess of the customary inclement weather shall be defined as that which is registered by NOAA for the geographic area given the season when construction is taking place.

## 28. ENVIRONMENTAL CONCERNS.

28.1. Tenant, its agents, employees, contractors or invites shall not (i) cause or permit any Hazardous Materials (hereinafter defined) to be brought upon, stored, used or disposed on, in or about the Premises and/or the Building in violation of any Environmental Laws (hereinafter defined), or (ii) knowingly permit the release, discharge, spill or emission of any Hazardous Material in or from the Premises.

28.2. Tenant hereby agrees that it is and shall be fully responsible for all costs, expenses, damages or liabilities (including, but not limited to those incurred by Landlord and/or its mortgagee) which may occur from the use, storage, disposal, release, spill, discharge or emissions of Hazardous Materials by Tenant whether or not the same may be permitted by this Lease. Tenant shall defend, indemnify and hold harmless Landlord, its mortgagee and its agents from and against any claims, demands, administrative orders, judicial orders, penalties, fines, liabilities, settlements, damages, costs or expenses (including, without limitation, reasonable attorney and consultant fees, court costs and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the use, storage, disposal, release, discharge, spill or emission of any Hazardous Material, or the violation of any Environmental Laws (hereinafter defined), by Tenant, its agents, employees, contractors or invitees. The provisions of this Section 28 shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or in equity and shall survive the transactions contemplated herein or any termination of this Lease.

28.3. As used in this Lease, the term "Hazardous Materials" shall include, without limitation:

(i) Those substances included within the definitions of "hazardous substances", "hazardous materials," toxic substances," or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*) ("CERCLA"), as amended by Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Resource Conservation and Recovery Act of 1976 ("RCRA"), and the Hazardous Materials Transportation Act, and in the regulations promulgated pursuant to said laws, all as amended;

(ii) Those substances listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (of any successor agency) as hazardous substances (40 C.F.R. Part 302 and amendments thereto); and

(iii) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyl, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 *et seq.* (33 U.S.C. § 1321) or listed pursuant to Section of the Clean Water Act (33 U.S.C. § 1317); (E) flammable explosives; or (F) radioactive materials.

28.4. All federal, state or local laws, statutes, regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authority identified in Section 28.3, above, or issued or promulgated thereunder shall be referred to as the "Environmental Laws."

**29. OPTION TO EXTEND TERM.** Provided that there is no Default by Tenant under any of the terms of this Lease, conditions, covenants and agreements contained herein, nor has Tenant ever been in Default of Section 19.1(x) above, Tenant shall have and is hereby granted the option to extend the Term hereof for one (1) additional period of five (5) years (the "Extension Period"), provided (i) Tenant gives written notice to Landlord of Tenant's election to exercise such extension option twelve (12) months prior to the expiration of the last Lease Year of the Term; (ii) no Default has occurred during the Term and no event exists at the time of the exercise of such option or arises subsequent thereto, which event by notice and/or the passage of time would constitute a Default if not cured within the applicable cure period. All terms and conditions of this Lease, including without limitation all provisions governing the payment of Additional Rent, shall remain in full force and effect during the Extension Period. Annual Minimum Rent during the Extension Period shall be as provided in Section 1E.

**30. OFAC.** Neither Tenant nor, to the best of Tenant's knowledge any person controlling Tenant or owning directly or indirectly any interest of ten percent (10%) or greater in Tenant, (i) has engaged in any dealings or transactions in contravention of the applicable anti-money laundering laws or regulations or orders, including without limitation, money laundering prohibitions, if any, set forth in the Bank Secrecy Act (12 U.S.C. Sections 1818(s), 1829(b) and 1951-1959 and 31 U.S.C. Sections 5311-5330), the USA Patriot Act of 2001, Pub. L. No. 107-56, and the regulations promulgated pursuant thereto by U.S. Treasury Department Financial Crimes Enforcement Network (FinCEN) at 31 C.F.R. Chapter X, (collectively, together with regulations promulgated with respect thereto, the "Anti-Money Laundering Acts"), (ii) has engaged in any dealings or transactions in contravention of Executive Order No. 13224 dated September 24, 2001 issued by the President of the United States (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), as may be amended or supplemented from time to time ("Anti-Terrorism Order"), (iii) has engaged in any dealings or transactions in contravention of the provisions in regulations promulgated by the U.S. Treasury Department Office of Foreign Assets Control (OFAC) set forth in 31 C.F.R. Chapter V, the Trading with the Enemy Act, 50 U.S.C. Appx. Section 1 et seq. or the International Emergency Economics Powers Act, 50 U.S.C. Section 1701 et seq. (the "Terrorist Acts") or (iv) is named in the Annex to the Anti-Terrorism Order or the Specially Designated Nationals ("SDN") List published and maintained by OFAC, as may exist from time to time.

**31. TENANT IMPROVEMENT CONTRIBUTION.**

31.1. Provided there is no current Default by Tenant under this Lease, Landlord agrees to provide Tenant with an allowance ("Tenant Improvement Contribution") in the amount of Eight Hundred Ten Thousand Dollars (\$810,000.00) for completion of Tenant's interior fitout. Tenant shall provide Landlord, and Landlord shall approve a budget for Tenant Improvements which approval shall not be unreasonably withheld, delayed or conditioned (the "Budget"). Tenant will be solely responsible for any costs over this allowance.

31.2. Tenant's improvements to the Premises, outside of the Tenant Improvement Allowance, will be as follows but not limited to architectural services and drawings for Tenant space; all cabinetry and millwork; all kitchen equipment; telephone systems, security systems, data requirements and internet connectivity; and all furniture, curriculum and classroom material.

31.3. The Tenant Improvement Contribution will be paid by Landlord to Tenant within 45-days after the last of the following occurs:

(i) Tenant or its general contractor certifies in writing to Landlord that one hundred percent (100%) of the Tenant Improvements, as described in this Lease, are completed, and 100% of such Tenant Improvements are actually completed, as reasonably confirmed by Landlord;

(ii) Tenant submits to Landlord copies of all paid invoices evidencing Tenant's actual construction costs pertaining to such work;

(iii) Tenant provides Landlord with appropriate releases of liens (in the form attached hereto as Exhibit B-8) executed by all applicable suppliers, materialmen, contractors and subcontractors who performed Tenant Improvements;

(iv) Tenant, or its general contractor, provides Landlord with an affidavit (in the form attached hereto as Exhibit B-9) specifying (a) the names of all contractors, subcontractors, suppliers and materialmen who provided or supplied, labor, services, goods and materials to the Premises, and (b) that all listed contractors, subcontractors, suppliers and materialmen have been paid in full for the labor, services, goods and materials provided or supplied to the Premises as of the date of the affidavit;

(v) Tenant provides Landlord with a copy of Tenant's certificate of occupancy and/or such other document as may be required by the applicable governmental agency in order for Tenant to operate in the Premises;

(vi) Tenant actually opens the Premises for business to the general public in compliance with the Lease; and

(vii) Tenant has paid the Security Deposit and is current in the payment of any Rent then due and payable.

In the event that Tenant has not provided lien waivers from its general contractor, Landlord at its sole option hereby retains the right to either (a) withhold from the Tenant Improvement Contribution an amount equal to the total monies due to any contractor, subcontractor, supplier or materialman who provided or supplied labor, services, goods or materials to the Premises, or (b) issue two-party checks to Tenant and the contractors, subcontractors, suppliers or materialmen to whom Tenant owes funds.

Under no circumstances shall this Lease be construed to confer upon any third person or entity any right or cause of action against the Landlord or Tenant, including, but not limited to, all contractors, subcontractors, suppliers, laborers or materialmen.

Landlord and Tenant recognize and agree that any improvements constructed from the proceeds of the foregoing Tenant Improvement Contribution are deemed to be owned by the Tenant not Landlord and such Contribution is not intended to be a "qualified lessee construction allowance" as defined in Reg. Sec. 1.110-1(b) of the Internal Revenue Code.

Notwithstanding the foregoing, Landlord shall have the right, without the obligation, to apply all of any portion of the undisbursed Tenant Improvement Contribution to remedy any default by Tenant occurring hereunder; provided, however, it is expressly covenanted and agreed that such remedy by Landlord shall not be deemed to waive, or release, the default of Tenant.

**32. PARKING.** Landlord shall make up to three (3) parking spaces available for rent to staff at the prevailing market rate. **[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, duly authorized representatives of Landlord and Tenant have executed this Retail Lease Agreement under seal on the day and year first above written.

**LANDLORD:**

**WITNESS:**

WFS2 LLC, a District of Columbia limited liability company

DR [SEAL]

By: 

Name: Mark Dayton

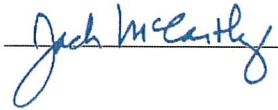
Title: sup

Date of Execution by Landlord: 3/27, 2019

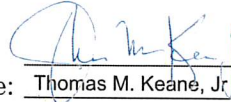
**TENANT:**

**ATTEST:**

**AppleTree Early Learning Public Charter  
School**, a District of Columbia nonprofit  
corporation

 [SEAL]

By:



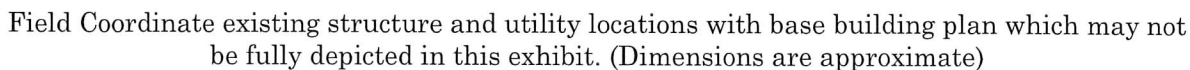
Name: Thomas M. Keane, Jr

Title: General Counsel

Date of Execution by Tenant: March 27, 2019

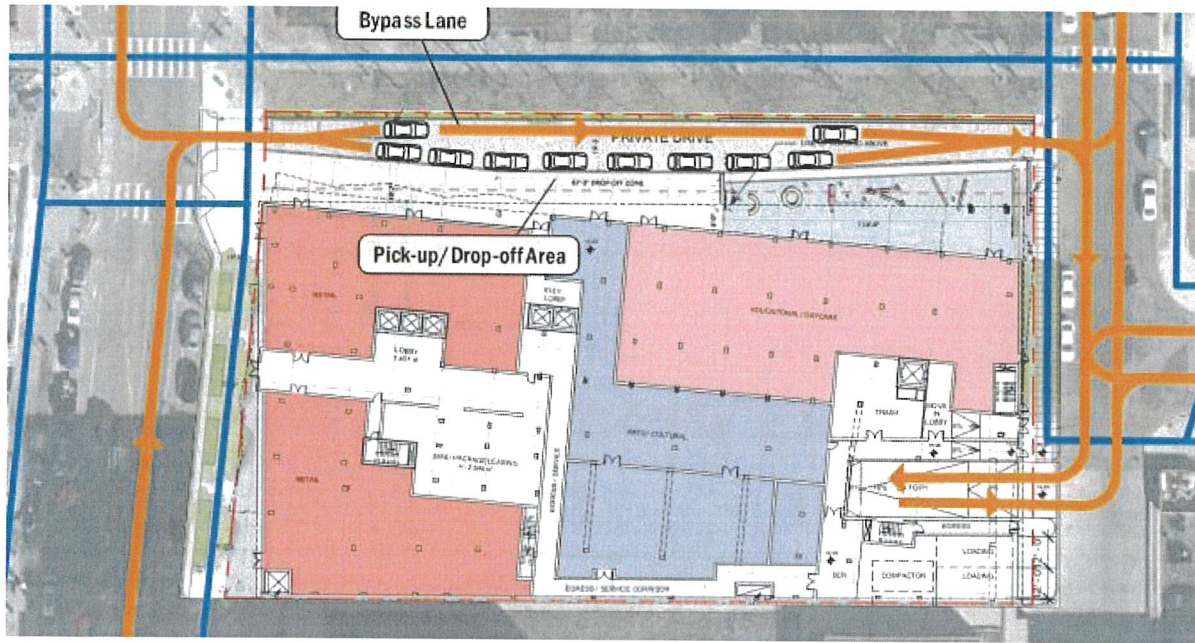
### DRAWING OF PREMISES

### Ground Floor Plan





**Pick-Up and Drop-Off Zone**





**EXHIBIT A-2**

INTENTIONALLY OMITTED

**EXHIBIT A-3**

INTENTIONALLY OMITTED

**EXHIBIT A-4**

**Final Utility Location Plan**

The following utility service will be provided to Tenant by Landlord at a location shown on the plan attached hereto designating Landlord's base building plan when the mechanical, electrical, plumbing and other utility locations (Base Building Utility Plan") have been designed.

TBD

## **EXHIBIT B**

### **WORK AGREEMENT**

This Work Agreement (this "Work Agreement") is attached to and made a part of that certain Retail Lease Agreement (the "Lease") dated \_\_\_\_\_, 2019, by and between **WFS2, LLC** a District of Columbia limited liability company, as landlord ("Landlord") and \_\_\_\_\_, as tenant ("Tenant") for the premises (the "Premises") described therein in the building located at 1000 4<sup>th</sup> Street, SW, Washington, D.C. (the "Building"). Capitalized terms not otherwise defined in this Work Agreement shall have the meanings set forth in the Lease. In the event of any conflict between the terms hereof and the terms of the Lease, the terms hereof shall prevail for the purposes of design and construction of the Tenant Improvements.

#### **A. Leasehold Improvements**

1. **Landlord Improvements.** Landlord, at its sole cost and expense, shall furnish and install in or for the benefit of the Premises the improvements described on **Schedule B-1** attached hereto (the "Landlord Improvements").

2. **Tenant Improvements.** Tenant, at its sole cost and expense, shall furnish and install in the Premises the improvements, equipment, and fixtures set forth in Tenant's Plans (hereinafter defined) which have been approved by Landlord in accordance with Section B-2 below (the "Tenant Improvements") in accordance with this Work Agreement. Tenant shall be obligated to complete any required improvements to the Premises other than the Landlord Improvements. Except for the Landlord Improvements, Landlord shall not be obligated to undertake any improvements or alterations in or to the Premises and Tenant shall accept the Premises in their "as is" condition, except for Landlord's obligation to construct the Landlord Improvements. Tenant Improvements shall include those items set forth on **Schedule B-1-1** as well as any additional items otherwise provided in this Work Agreement.

#### **B. Plans and Specifications**

1. **Tenant's Architect.** Tenant will obtain Landlord's prior written consent which shall not be unreasonably withheld, conditioned or delayed to the architect ("Tenant's Architect"), who will design the Premises, and prepare the Preliminary Plan (hereinafter defined) and the Contract Documents (hereinafter defined). If Tenant elects to use a design consultant, or design consultants, other than Tenant's Architect in connection with the preparation of the Tenant's Plan (hereinafter defined) and the construction of the Tenant Improvements, Tenant shall obtain Landlord's prior written approval of Tenant's design consultants, which approval shall not be unreasonably withheld. The Tenant's Architect shall make contact with Landlord's architect ("Landlord's Architect") and structural, mechanical, electrical and plumbing engineers (the "Engineers") from time to time to obtain information about the Building and to coordinate its plans and specifications with them. All fees of Tenant's Architect shall be borne solely by Tenant, subject to the application of the Tenant Work Allowance.

#### **2. Time Schedule and Requirements.**

a. Within thirty (30) days after the Effective Date, Tenant shall furnish to Landlord for its review and approval, the proposed detailed schematic floor plan and equipment floor plan for the Tenant Improvements (the "Preliminary Plan") prepared by the Tenant's Architect in consultation with the Landlord's Architect and the Engineers. The Preliminary Plan

shall contain the information and shall otherwise comply with the requirements therefor as described in **Schedule B-2** attached hereto. Landlord shall advise Tenant of Landlord's approval or disapproval of the Preliminary Plan in writing within fourteen (14) days after Tenant submits the Preliminary Plan to Landlord. Tenant shall prepare the Contract Documents (defined below) to meet Landlord's written objections.

b. Within thirty (45) days after Landlord has approved the Preliminary Plan or provided its written objections thereto to Tenant, Tenant shall furnish to Landlord for its review and approval all architectural plans, working drawings and specifications (the "Contract Documents") necessary and sufficient (i) for the construction of the Tenant Improvements in accordance with the Preliminary Plan; and (ii) to enable the Contractor (hereinafter defined) to obtain a building permit for the construction of the Tenant Improvements. The Contract Documents shall contain the information and otherwise comply with the requirements therefore described in **Schedule B-3** attached hereto. Landlord shall advise Tenant of Landlord's approval or disapproval of the Contract Documents, or any of them, within fifteen (15) days after Tenant submits the Contract Documents to Landlord. Tenant shall revise the Contract Documents to meet Landlord's objections, if any, and resubmit the Contract Documents to Landlord for its review and approval within thirty (30) days after Landlord notifies Tenant of Landlord's objections, if any. Notwithstanding anything herein to the contrary, approval by Landlord of the Contract Documents shall not constitute an assurance by Landlord that the Contract Documents: (a) satisfy applicable code requirements, (b) are sufficient to enable the Contractor to obtain a building permit for the undertaking of the Tenant Improvements in the Premises, or (c) will not interfere with, and/or otherwise adversely affect, base building systems.

c. The Preliminary Plan and the Contract Documents are referred to collectively herein as the "Tenant's Plan." Tenant shall not commence any Initial Improvements prior to Landlord's written approval of the Tenant's Plan.

d. Tenant's Plan shall be prepared in accordance with a commercially reasonable format for working drawings in conformity with the base building plans and systems and with information furnished by and in coordination with Landlord's Architect and structural, mechanical, electrical and plumbing engineers. Tenant's Plan shall comply with all applicable building codes, laws and regulations (including without limitation the Americans with Disabilities Act), shall not interfere with or require any changes to or modifications of the base building's mechanical, electrical, plumbing or other systems or to other Building operations or functions, and shall not increase maintenance or utility charges for operating the Building in excess of the standard requirements for normal first-class retail buildings in the Washington, D.C. metropolitan area.

e. Tenant shall perform site surveys to confirm that the Tenant's plans are coordinated with the base building plans and systems as installed or as designed to be installed. Any field modifications to base building systems required to allow Tenant work to be installed as designed will be the responsibility of the Tenant.

f. No Tenant Improvements may proceed without written approval from Landlord and satisfaction of all requirements provided in this Work Agreement.

g. Notwithstanding the foregoing, for additional required Landlord reviews, above those reviews identified above, relating to Tenant items that require special consideration (e.g. vertical transportation, major penetrations, etc.), Tenant will be responsible for all Landlord costs of review incurred at prevailing hourly rates of Landlord's design consultants.

3. **Changes to Tenant's Plan.** In the event that Tenant requests any material changes to the Contract Documents or the Preliminary Plan after Landlord has approved same in writing, or if it is determined that the Contract Documents prepared in accordance with the Preliminary Plan deviate from the requirements of applicable law, Tenant shall be responsible for all costs and expenses (the "Additional Costs") and for all delay resulting therefrom. The Additional Costs shall include, without limitation, all costs incurred by Landlord as a result of any revisions to the Contract Documents such as all architectural and engineering costs and related design expenses. No changes shall be made to the Contract Documents without the prior written approval of Landlord, which approval shall not be unreasonably withheld, conditioned or delayed except to the extent such change affects the base building or Building systems. Landlord shall not be responsible for delay in occupancy by Tenant, nor shall the Commencement Date or the Rent Commencement Date be delayed, because of any changes to the Preliminary Plan or the Contract Documents after approval by Landlord, or because of delay caused by or attributable to any deviation from applicable code requirements contained in the Contract Documents. Tenant shall be required to pay the Additional Costs to Landlord, in full, within ten (10) days after invoice by Landlord. Landlord agrees that it shall not cause to be made any changes to the Preliminary Plan or the Contract Documents except to the extent that such change is: (a) requested by Tenant, or (b) necessitated by the deviation of the Contract Documents or the Preliminary Plan from the requirements of applicable law.

4. **Base Building Changes.** If Tenant requests work to be done in the Premises or for the benefit of the Premises that necessitates revisions or changes in the design or construction of the base building or Building systems, any such changes shall be subject to prior written approval of Landlord, in its sole discretion, and Tenant shall be responsible for all costs and delays resulting from such design revisions or construction changes, including architectural and engineering charges, and any special permits or fees attributed thereto. Before any such design and/or construction changes are made, Tenant shall pay to Landlord the full costs incurred by Landlord in connection with such changes.

C. **Cost of Tenant Improvements.** All costs of design and construction of the Tenant Improvements, including without limitation the costs of all design, space planning, architectural and engineering work related thereto, all governmental and quasi-governmental approvals and permits required therefor, demolition costs, all direct and indirect construction costs, insurance, bonds and other requirements, any changes and all other costs incurred in connection with the Tenant's build-out of the Premises (collectively, the "Construction Costs") shall be paid by Tenant.

D. **Construction.**

1. **Selection of General Contractor.** Once Landlord has approved the Contract Documents, Tenant shall submit the Contract Documents to no more than three (3) contractors agreed upon by Tenant and Landlord. Tenant shall select the contractor ("Contractor") which will undertake construction of the Tenant Improvements. All Contractors shall be approved by Landlord and shall carry appropriate license, bonding, and insurance. Tenant to submit Contractor qualifications for Landlord review. Landlord approval not to be unreasonably withheld.

2. **Construction By Contractor.** In undertaking the Tenant Improvements, the Contractor shall comply with the following conditions:

a. No work involving or affecting the Building's structure or the plumbing, mechanical, electrical or life/safety systems of the Building shall be undertaken without (i) the

prior written approval of Landlord, in its sole discretion, (ii) the supervision of Landlord's building engineer, the actual cost of which supervision shall be borne by Tenant; (iii) compliance by Tenant and the Contractor with the insurance requirements set forth below; and (iv) compliance by Tenant and the Contractor with all of the terms and provisions of this Work Agreement;

b. Prior to the initiation of any of the Tenant Improvements, Tenant or Contractor shall post a performance bond or provide to Landlord other evidence satisfactory to Landlord, in its sole discretion, of the Contractor's ability to finish the Tenant Improvements;

c. All Tenant Improvements shall be done in strict conformity with (i) the final approved Tenant's Plan; (ii) all applicable codes and regulations of governmental authorities having jurisdiction over the Building and the Premises; (iii) valid building permits and other authorizations from appropriate governmental agencies, when required, which shall be obtained by Tenant's representative at Tenant's expense; (iv) the construction contract between Tenant and the Contractor; and (v) Landlord's construction policies, rules and regulations attached hereto as **Schedule B-4**, as the same may be modified by Landlord from time to time ("Construction Rules"). Any work not acceptable to the appropriate governmental agencies or not reasonably satisfactory to Landlord shall be promptly replaced at Tenant's expense. Notwithstanding any failure by Landlord to object to any such work, Landlord shall have no responsibility therefor; and

d. In the event Tenant fails to pay the Contractor, Landlord shall have the right to pay the Contractor on Tenant's behalf and Tenant shall on demand pay such amount to Landlord as Additional Rent.

### **3. Insurance Requirements.**

a. The Contractor shall not commence the Tenant Improvements until it has obtained all the insurance required hereunder from insurance companies which are licensed to do business in the District of Columbia and have been approved by Landlord, nor shall the Contractor allow any subcontractor to commence any portion of the Tenant Improvements until all insurance required of the subcontractor has been so obtained and approved. The Contractor and each subcontractor shall maintain all insurance required under **Schedule B-5** until final acceptance of the Tenant Improvements in accordance with the terms of this **Exhibit B**.

b. True copies of all policies specified shall be made available to the Landlord for inspection upon the Landlord's request. Certificates of insurance shall be filed with the Landlord and Tenant. Any certificate filed with the Landlord or Tenant which shall be found to be incomplete or not according to form, will be returned as unsatisfactory. Rejected certificates of insurance shall be corrected as necessary and resubmitted until approved.

c. Each insurance policy shall contain an endorsement stating that the insurance company will not, prior to the completion of the Tenant Improvements or any policy expiration date shown on the policy and certificate, whichever occurs first, terminate the policy or change any coverage therein without first mailing to the Landlord and Tenant, by registered mail, written notice of such action at least thirty (30) days prior to the termination indicated.

d. Contractor shall agree and will require each subcontractor to agree to assist in every manner possible in the reporting and investigation of any accident, and upon request, to cooperate with all interested insurance carriers in the handling of any claim by securing and giving evidence and obtaining the attendance of witnesses as required for any claim or suit.

e. Failure to secure the insurance coverages, or failure to comply fully with any of the insurance provisions of this Work Agreement, or failure to secure such endorsements on policies as may be necessary to carry out the terms and provisions of the construction contract, shall in no way act to relieve Contractor from obligations of the construction contract.

f. The Commercial General Liability policy shall name Landlord and Mortgagee, if any, as an additional insured.

g. Dependent on the scope of work to be performed at the Premises, Landlord shall have the right to require increased limits or broader coverages as Landlord reasonably deems appropriate.

**4. Construction Supervision.** All Tenant Improvements shall be performed by the Contractor selected in accordance with this Work Agreement. Landlord shall name an in-house construction supervisor as Landlord's construction supervisor in connection with the construction of the Tenant Improvements.

**5. Permits and Licenses.** Tenant shall be solely responsible for procuring, at its sole cost and expense, all permits and licenses necessary to undertake the Tenant Improvements and, upon completion of the Tenant Improvements, to occupy the Premises. Tenant's inability to obtain, or delay in obtaining, any such license or permit shall not delay or otherwise affect the Commencement Date, the Rent Commencement Date or Tenant's obligations under this Lease.

**6. Inspection.** Landlord is authorized to make such inspections of the Premises during construction as it deems necessary or advisable.

**7. Indemnification.** Tenant shall indemnify Landlord and hold it harmless from and against all claims, injury, damage or loss (including reasonable attorneys' fees) sustained by Landlord as a result of the undertaking by Tenant and the Contractor of the Tenant Improvements in the Premises.

**E. Acceptance of Premises.** The Premises are accepted by Tenant at lease execution. Tenant shall make regular inspections and agree with Landlord on progress payments, i.e., Tenant, Landlord and Contractor shall make an inspection of the Premises to determine that the construction and installation of the Tenant Improvements are being completed in accordance with Tenant's Plans and to prepare a "Punch List" of work requiring correction or completion by Contractor. Contractor shall correct or complete all Punch List items within twenty-one (21) days after the Completion of the Tenant Improvements.

**F. Contractor's Rules and Regulations.** The Contractors and all other contractors and subcontractors and vendors engaged by Tenant may not enter the Building to perform any work or installations prior to the Commencement Date without Landlord's prior written consent. If Landlord consents to such entry, each contractor, subcontractor or vendor shall observe all rules and regulations (the "Construction Rules and Regulations") promulgated by Landlord in connection with the performance of work in the Building, attached hereto as **Schedule B-5**.

**G. Tenant's Agent.** Tenant hereby designates \_\_\_\_\_, whose address is \_\_\_\_\_ and whose telephone number is (\_\_\_\_) \_\_\_\_-\_\_\_\_, to act as Tenant's agent for purposes of authorizing and executing any and all documents, work letters or other writings and changes thereto needed to effect this Work Agreement, and any and all changes,



additions or deletions to the work contemplated herein, and Landlord shall have the right to rely on any documents executed by such authorized party.

H. **Tenant's Permits.** All required permits for Tenant Improvements shall be obtained and fees paid therefor by Tenant. To the extent required by applicable code, Tenant will obtain, at Tenant's expense, a Certificate of Occupancy prior to opening for business and Tenant will provide Landlord with a copy of the final Certificate of Occupancy or its equivalent for the Premises, provided however, the Landlord shall be responsible for obtaining an occupancy permit for the base building, if applicable.

Schedule B-1	Landlord Improvements
Schedule B-1-1	Additional Requirements for Tenant Improvements
Schedule B-2	Requirements for Preliminary Plan
Schedule B-3	Requirements for Contract Documents
Schedule B-4	Construction Rules and Regulations
Schedule B-5	Insurance Requirements
Schedule B-6	Early Access For Tenant Improvement Work
Schedule B-7	Reserved
Schedule B-8	Final Release and Waiver of Liens
Schedule B-9	Affidavit

## SCHEDULE B-1

### LANDLORD IMPROVEMENTS TO BE PERFORMED BY LANDLORD

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

Shell building and finish improvements to be provided by and at the expense of the Landlord will be as follows:

Except for the items specifically listed below to be expressly performed by Landlord, Tenant expressly acknowledges and agrees that it is obligated to accept the Premises in their current "as is" condition:

- 1) Space Delivery: The landlord will deliver a cold, dark shell as described herein. Prior to the commencement of Tenant Improvements, Tenant execute and return to Landlord the Tenant Acceptance and Estoppel Certificate in the form attached hereto as **Exhibit D**.
- 2) Storefront: The landlord will install the storefront system as detailed in the contract documents.
- 3) Electricity: The landlord will furnish and install electrical service to the demark point in the main electrical room located in the garage. Tenant responsible for providing feeder cable from panel to Premises through landlord provided conduit. The Tenant will be responsible for the C/T cabinet and a meter socket to meet power needs and utility company requirements. Tenant will work with Landlord on actual power load requirement for the pre-kindergarten facility Tenant shall provide load requirements within 90 days of the execution of the Lease.
- 4) Lighting: Landlord will provide no lighting unless it is required to obtain jurisdictional approvals.
- 5) Fire Alarm: Landlord to provide base building alarm system to the Premises. Tenant to modify as needed for tenant layout.
- 6) Plumbing and Water Service: Landlord to provide capped hot & cold water supply line to the Premises. (at a location and size to be further identified in **Exhibit A-4**). Garage is unconditioned; therefore, insulation is required for all water lines furnished and installed by the tenant in the garage.
- 7) Plumbing-Sanitary Service: Landlord to provide capped sanitary supply line and capped sanitary vent stubbed to the underside of the Premises, as indicated on plans; provided, however, a waste line will not be provided by Landlord to Tenant's storage space, if applicable, and as further defined in **Exhibit A-4**.
- 8) Floor: Floor to be turned over in a broom swept trowel finish. Ceiling: The ceiling is open to exposed concrete structure. The minimum clear height of the structure in the tenant premises varies. Tenant is responsible to confirm heights to structure and any existing devices within Premises. The Tenant Improvement ceiling construction will be part of the Tenant's Work.

- 9) Landlord shall install demising walls with studs per code, sheetrock and taped to applicable fire code rating,
- 10) Sprinkler: Landlord shall supply operating sprinkler loop with up-turned sprinkler heads in a loft shell condition only.
- 11) Telephone/Data/Cable: Landlord to provide a 1" conduit with pull string to the Premises to provide Tenant access to telephone service within the base building telecom room per Exhibit A-4;
- 12) Kitchen Exhaust: None.
- 13) Toilet Exhaust: Tenant will install and connect exhaust to louvers provided as part of the Landlord's storefront louver band.
- 14) HVAC Equipment: Landlord to provide Tenant with HVAC refrigerant piping and two (2) electrical conduits to the roof capable of supporting up to eight (8) 5-ton split system units with long line kits, as indicated on Exhibit A-4.
- 15) Fresh Air Make-up: Tenant will install and connect to intake and exhaust through the Landlord's storefront louver band.
- 16) Gas Service: Gas is currently not provided to the Tenant Premises. Gas service will be available at a designated connection point in Landlord's central gas meter room. Extension of a gas line to the Premises is the responsibility of the Tenant. Structural: Landlord will provide conventionally reinforced exposed concrete floor capable of withstanding 50 psf superimposed dead load for retail fit-out allowance and 100 psf live load. Tenant will work together with Landlord to determine the appropriate slab height for the chosen flooring option prior to the pouring of the first-floor slab. Vertical Transportation: N/A
- 17) Codes/Permits: Landlord to perform all Landlord Improvements in compliance with all applicable code requirements, including but not limited to the Americans with Disabilities Act and applicable fire codes to the extent the same apply to Landlord Improvements.
- 18) Connection Points. To the extent any utility line or service is to be stubbed or brought to a location at the Premises, the location of such stub/connection shall be at a location within the rear third of the Premises, unless otherwise approved by Landlord on the Final Utility Location Plan.
- 19) Broadband Services: Landlord to provide conduit to the main phone room.

Tenant expressly acknowledges that except as expressly provided for in this Lease, Landlord makes no representations or warranties regarding the Premises, the Applicable Retail Unit or the Project or the suitability of the Premises, the Applicable Retail Unit or the Project for Tenant's business.

If there is any element of Landlord's Work which requires Tenant to provide information or a particular location as set forth herein, Tenant shall provide the same within seven (7) business days after Landlord's written request therefor. If Tenant fails to provide such information or location within such time period, Landlord may provide Tenant with a second written notice and

if Tenant fails to provide such information or location with two (2) business days thereafter, Landlord may assume a particular response from Tenant in Landlord's sole but reasonable discretion, Tenant thereby waiving any right to later provide such information or location and have the same included in Landlord Improvements.

## SCHEDULE B-1-1

### ADDITIONAL REQUIREMENTS FOR TENANT IMPROVEMENTS BY TENANT

- 1) Signage: Tenant to furnish and install signage on the Premises which must be reviewed and approved by Landlord as well as appropriate governmental agencies . All signage must adhere to the Retail Sign Guidelines. Any penetrations through the façade of the Building must be appropriately waterproofed and sealed. Tenant's Plans must include waterproofing details for all building skin penetrations. Details for penetrations through building envelope to be approved by Landlord. Tenant is responsible for replacement and repair of any existing brick or façade material that is affected from install of canopy/awning or signage.
- 2) Electricity: Tenant at its sole cost and expense will be responsible for connection to wire trough, disconnect switches and C/T cabinet or meter socket as required by PEPCO. Tenant at its sole cost and expense will be required to route wiring from the demark point or main electrical room to the Premises within Landlord provided conduit. Electrical transformers, distribution panels, and associated wiring required to support the Tenant's operations shall be located within the Premises and provided at the Tenant's sole cost and expense. Tenant shall also be responsible for setting up electrical utility purchasing/billing from the local electricity provider (PEPCO). Should Tenant Improvements start prior to meter installation, Tenant to pay pro rata share of house electrical use.
- 3) Lighting: Tenant is responsible for all interior, exterior, and signage lighting, which must be approved by Landlord and the appropriate jurisdictional authorities. All exterior lighting, including signs, and window merchandizing lighting should be on timers, separate from the rest of the store lighting.
- 4) Fire Alarm: Tenant's fire alarm equipment must be of same type and manufacturer as base building system and fully compatible with the base building system. Installation of the equipment and final tie into the base building is required to be done by base building Fire Alarm Subcontractor, to be paid by Tenant as part of Tenant Improvements.
- 5) Plumbing and Water Service: Plumbing and water service within the Premises design by Tenant's subcontractor must be reviewed by Landlord's MEP consultant. All permits, associated fees including but not limited to, tap fees, fixture fees, permit fees, hook-up fees, and meter fees related to Tenant Improvements at the Premises are Tenant's sole responsibility. Landlord will provide water submeter (type to be determined by Landlord) of appropriate capacity and will route submetering circuitry to location as designated by Landlord, (location to be within the Premises).
- 6) Plumbing – Sanitary Service: Waste lines within the Premises to be installed by Tenant with an agreed upon routing within the base building garage. All plumbing and sanitary service design must be reviewed by Landlord's MEP consultant.
- 7) Access: Tenant to provide access for Landlord inspection, maintenance or repair to all residential or other utilities routed through or into the Tenant Premises, provided however, that Landlord shall provide Tenant with no less than 24 hours advance notice of its requested access date unless in the event of an emergency. Landlord is authorized to

make such inspections of the Premises during construction as it deems necessary or advisable. Access panels shall be maintained for periodic access and inspection by the Landlord. Access for, but not limited to the following: condenser water supply and return, toilet exhaust, dryer exhaust cleanouts, dryer make-up air shafts, kitchen exhaust, sanitary, storm, vent, electrical, all ductwork, grease trap, water, gas, security wiring and control wiring.

- 8) Floor: Tenant is responsible at Tenant cost for any slab infill required and for any skim coat for installation of Tenant specialty flooring. Tenant is responsible for selecting flooring materials and final interior grading plans and conditions that comply with all local and federal laws or code requirements including ADA. Tenant must design and construct at Tenant's sole expense interior grading plans to meet exterior grade at all ingress and egress points.
- 9) Ceiling: Should Tenant desire to hang any equipment from concrete ceiling that requires slab penetrations, Tenant must x-ray/scan all slabs prior to any penetrations made by Tenant, to ensure no post-tensioning tendons or reinforcing steel within the slab will be affected, at Tenant's cost. Tenant shall submit any work plans that requires slab penetrations to the base building structural engineer for review and approval. All hung equipment must be acoustically and structurally isolated to eliminate any transference of sound or vibration from the equipment to the adjacent structure. Details of Tenant's ceiling for Tenant Improvements to be indicated on Tenant's Plans. Tenant must construct interior ceiling to fully isolate, from sound and vibration, the Premises from adjacent spaces.
- 10) Demising Walls: All in-wall power outlets within demising walls are to be provided by Tenant.
- 11) Sprinkler: Tenant shall be responsible for final configuration and distribution to meet code requirements for Tenant's use and layout. Any extension or tie-in to the base building system must be completed by the base building Fire Protection subcontractor. Tenant contractor shall utilize the services of the base building Fire Protection subcontractor. All sprinkler design to be reviewed by Landlord's MEP engineer.
- 12) Telephone/Data/Cable: Tenant shall supply telephone wiring within the conduit provided by Landlord pursuant to **Schedule B-1** along Landlord approved route. Tenant shall supply telephone/data line. Tenant is responsible to secure the services of the Tenant desired phone/data and cable company.
- 13) Sound Attenuation: Tenant shall install sound attenuation materials in ceiling and demising walls that provide a minimum of 45 dba to avoid sound transmission to adjacent spaces. If sound attenuation is not sufficient or does not meet required acoustic levels, Tenant will take additional actions, at Tenant's sole cost and expense, to further mitigate sound to a level mutually agreeable between Landlord and Tenant.
- 14) Kitchen Exhaust: None.
- 15) Grease Interceptors: None.
- 16) Toilet Exhaust: Tenant to extend a toilet exhaust to the louver band within the Tenant's storefront. All ductwork and ductwork routing, including exhaust fan, back-draft damper,

louver, or any other system appurtenances will be provided by Tenant and must be approved by Landlord's MEP consultant. If upon completion, the louver exhaust system creates objectionable odors in adjacent spaces and areas, filtration systems or other similar methods will be required to be completed by Tenant at Tenant's cost, to alleviate the condition.

- 17) HVAC Equipment: Tenant will be responsible for providing stand-alone split-system type air-conditioning or heat-pump systems with long-line refrigerant piping kit, electric-resistance type auxiliary heat, all air distribution ductwork / air devices, intake and exhaust fans (as needed), and condensate drain piping to the storm/condensate drainage systems with back-water valves connection points. Outside air and Exhaust air shall be terminated at the exterior of the retail space where the 2<sup>nd</sup> floor overhangs the retail curtain walls. Base building MEP Engineer will review proposed HVAC equipment locations and piping routes for conflict with the retail space provisions provided in the base building design. Vibration isolation is required on all hung HVAC units between retail ceiling and residential apartment above. Details for vibration isolation must be included on Tenant's plans. Tenant shall provide air-side economizers as required per the energy code. HVAC capacity to be as identified on Exhibit A-4.
- 18) Fresh Air Make-up: Exterior penetrations, louvers, ductwork, etc. to be coordinated with Landlord's louver panels (where applicable) or to be furnished and installed by Tenant at Tenant's cost and are subject to Landlord's review and approval.
- 19) Floor Drains and Open Site Drains: At Tenant cost, where required, Tenant shall be responsible for any penetrations to slab above and below and Tenant must reseal such slab penetrations with sound attenuation materials. Tenant shall also be responsible for resealing any penetrations to fire rated materials. Tenant to provide final sleeve and slab penetration plan to Landlord no later than sixty (60) days following the execution of the Lease. Sleeves and slab penetrations will be installed by Tenant at Tenant's expense. Placement of such drains are subject to review by Landlord and Landlord's Structural Engineer. All floor slabs must be x-rayed/scanned prior to work at Tenant cost.
- 20) Penetrations: Penetrations created by Tenant's contractor at exterior skin or through demised separation from adjacent spaces must be sealed by Tenant's contractor. All penetrations including but not limited to roof, exterior building envelope, floor slabs, demising wall, etc. must be reviewed by Landlord's base building structural engineer and, approved by Landlord in writing. All substrate materials shall be restored to original condition. Any roof penetrations/work by Tenant must be performed by base building roofing subcontractor at Tenant's cost. All floor slabs must be x-rayed/scanned prior to work at Tenant cost. Any penetrations to slab above or through demising walls must be resealed with sound attenuation materials and fire sealant.
- 21) Structural: All Tenant fit-out drawings will be reviewed by Landlord's base building structural engineer, at no cost to Tenant. All mechanical equipment being hung from the ceiling slab must be approved by base building structural engineer for load allowances. All floor slabs must be x-rayed/scanned prior to any penetrations made by Tenant, to ensure no post-tensioning tendons or reinforcing steel within the slab will be affected. All additional loading must be designated by Tenant engineer and approved by Landlord engineer.

- 22) Façade Structural: All attachments of Tenant canopy or signage or other appurtenances shall be approved by base building structural engineer. Tenant shall also conduct independent field inspection of attachment during construction, which such field reports shall be reviewed/approved by Landlord's base building structural engineer and be required to be submitted to code reviewers prior to completion of work. All cost and remedial work, if necessary, is the responsibility of Tenant.
- 23) Core Drilling: All core drilling through slabs and garage slabs to be coordinated with Landlord and reviewed by Landlord's structural engineer. X-raying and/or scanning the slab is required prior to work commencing and shall be the responsibility of Tenant.
- 24) Fireproofing: Steel members may have cementitious spray or other fireproofing. All fire ratings in structural members must be maintained at all times. Should structural revisions be required for Tenant, Tenant is required to provide necessary fire rating for all new components. Landlord to deliver base building structure with all fireproofing in compliance with applicable fire rating.
- 25) Expansion Joints: Tenant Improvements must incorporate and reflect expansion joints in Landlord's shell building such as to insure the long-range integrity of both Landlord and Tenant Improvements.
- 26) Waterproofing/Building Attachment Details: Tenant shall be responsible for prior waterproofed attachment to horizontal and vertical base building exterior elements and such details must be shown on Tenant's plans. Tenant connection to base building shall be performed by base building waterproofing subcontractor.
- 27) Code/Permits: Tenant is responsible to design to all applicable codes and secure, at Tenant cost, all permits for all Tenant Improvements and upon completion of the Tenant Improvements, to occupy the Premises. Tenant's inability to obtain, or delay in obtaining, any such license or permit shall not delay or otherwise affect the Commencement Date, the Rent Commencement Date or Tenant's obligations under this Lease. Tenant shall provide Landlord with copies of permits prior to commencement of work.



## SCHEDULE B-2

### REQUIREMENTS FOR PRELIMINARY PLAN

Final schematic floor plan and equipment floor plan, together with related information for mechanical, electrical and plumbing design work, showing partition arrangement and reflected ceiling plans (one (1) reproducible hard copy set as well as a digital PDF copy), including without limitation the following information:

- a. Floor Plan at minimum 1/4" = 1'0" scale.
- b. Elevation and section through storefront display.
- c. Interior elevations.
- d. Identification of all materials to be used in the construction of the Premises.
- e. Location and description of all signage.
- f. Identification and location of any items which would exceed an occupancy load of 40 lbs. per sq. ft. superimposed dead load for retail fit-out allowance and 100 lbs. per sq. ft. live load (i.e. deposit safes and mechanical equipment).
- g. Penetration; utility connection.
- h. Reflected ceiling plan.
- i. Decorations, window treatments, graphics and furnishings.
- j. Retail store design development drawings including floor plans, design drawings for the Final Utility Location Plan, sections, and material boards.
- k. Load Letter.

## SCHEDULE B-3

### REQUIREMENTS FOR CONTRACT DOCUMENTS

Final architectural detail and working drawings, finish schedules and related plans (digital PDF submission) including without limitation the following information and/or meeting the following conditions:

- a. Cover Sheet, Drawing Index, General Notes, Code Information, Project Information
- b. Key plan showing store name and location of the Premises.
- c. Demo Plan
- d. Floor plan at a minimum scale of  $\frac{1}{4}$ "
- e. Core drilling plan, minimum  $\frac{1}{4}$ "
- f. Overall sections / details  $\frac{1}{4}$ "
- g. Reflected Ceiling Plan at a minimum  $\frac{1}{4}$ "
- h. Interior elevations, FFE details at  $\frac{1}{4}$ "
- i. Wall types / transition details.
- j. Details of special conditions encountered
- k. Door schedule
- l. Fire sprinkler drawings
- m. Mechanical drawings, including attachment details
- n. Fire alarm drawings
- o. Electrical schedule and riser diagram
- p. Energy compliance sheets
- q. Gas and Electrical load calculations
- r. Plumbing drawings, including riser diagrams at  $\frac{1}{4}$ "
- s. Roof plan at  $\frac{1}{4}$ " scale (location of all roof top equipment) including all curb, dunnage, and flashing details.
- t. Fixture layout plan.

- u. Signage shop drawings
- v. Other plans required by Legal Requirements, including local code requirements.
- w. materials, colors and designs of wallcoverings, floor coverings and window coverings and finishes;
- x. paintings and decorative treatment required to complete all construction;
- y. complete, finished, detailed mechanical, electrical, plumbing and structural plans and specifications for the Tenant Improvements, including but not limited to the fire and life safety systems and all work necessary to connect any special or non-standard facilities to the Building's base mechanical systems;
- z. proof of compliance with relevant LEED design criteria;
- aa. acoustical treatment details and material information;
- bb. security design and interface plans;
- cc. loading, trash, and recycling management plans and program;
- dd. core drill or structural modification plans;
- ee. interior finish floor elevation and grading plans;
- ff. vertical circulation plan and details (if any);
- gg. louver and ventilation plans;
- hh. all final drawings must be drawn to an appropriate scale as set forth in the Tenant Guidelines to Retail Design and Construction. Any architect or designer acting for or on behalf of Tenant shall be deemed to be Tenant's agent and authorized to bind Tenant in all respects with respect to the design and construction of the Premises; and
- ii. notwithstanding anything to the contrary set forth herein, in the Work Agreement or in the Lease, Tenant shall not request any work which would: (1) require changes to structural components of the Building or the exterior design of the Building; (2) require any material modification to the Building's mechanical installations or installations outside the Premises; (3) not comply with all applicable laws, rules, regulations and requirements of any governmental department having jurisdiction over the construction of the Building and/or the Premises, including specifically but without limitation the Americans with Disabilities Act; (4) be incompatible with the building plans filed with the appropriate governmental agency from which a building permit is obtained for the construction of the Tenant Improvements or with the occupancy of the Building as a first-class retail building; or (5) delay the completion of the Premises or any part thereof. Tenant shall not oppose or delay changes required by any governmental agency affecting the construction of the Building and/or the Tenant Improvements in the Premises.

## SCHEDULE B-4

### CONSTRUCTION RULES AND REGULATIONS

The following provisions shall govern Tenant Improvements or any other work performed by or at the direction of Tenant as permitted by and pursuant to the provisions of the Lease (as used in this **Schedule B-4**, "Tenant Contractor's Work"). As used herein, "Tenant Contractor" shall mean any party performing Tenant Contractor's Work. Landlord or its designee shall act as the representative of Landlord. All other terms used in this **Schedule B-4** shall be as defined herein or as otherwise defined in the Lease. This **Schedule B-4** shall be included in full and without edits as a binding exhibit in all contracts entered into and between the Tenant and Tenant Contractor.

1. Permits

- a. All permits and licenses necessary for the proper execution of Tenant Contractor's Work shall be secured and paid for by Tenant Contractor prior to commencement of Tenant Contractor's Work, and shall be visibly posted within the portion of the Project (herein also referred to as the "Site") where Tenant Contractor's Work is performed (the "Work Area"). At least ten (10) days prior to commencement of Tenant Contractor's Work, a copy of each document shall be provided to Landlord.

2. Insurance Certificates

- a. Prior to commencement of Tenant Contractor's Work, Tenant shall furnish to Landlord evidence of insurance coverage required under the Lease. All insurance coverage shall name those parties required by the Lease as additional insured or loss payee, as applicable, including, but not limited to the Landlord's base building contractor (the "BB Contractor").

3. Compliance with Laws

- a. Tenant Contractor and its subcontractors shall comply with all Federal and Local laws, ordinances, rules and regulations bearing on the performance of Tenant Contractor's Work ("Applicable Laws").

4. Workmanlike Conduct

- a. Tenant Contractor shall be responsible for all actions of its subcontractors, suppliers, employees, personnel, agents and visitors while on the Site and in transit to and from the Premises and all employees, personnel, and subcontractors must conduct themselves in a civilized and orderly manner. No loud or abusive language or actions will be allowed. Playing of music, which can be heard outside of the Work Area, will not be allowed.
- b. It will be the responsibility of Tenant Contractor to enforce this regulation with immediate corrective measures on a day-to-day basis and/or in response to specific complaints from BB Contractor or Landlord. Tenant Contractor will promptly remove from the Site any employee deemed abusive or inappropriate upon Landlord's written request.

- c. There will be no alcohol or controlled substances allowed or tolerated.

5. Site Safety

- a. Any accidents or injuries occurring on the Site must be reported in writing to Landlord as soon as time permits following such incident, but no later than 24 hours after each occurrence. Tenant Contractor, its subcontractors, suppliers, employees, agents, and all visitors are required to wear safety helmets, safety vests, and other required OSHA approved safety equipment while in the Work Area or at other locations on the Site and meet minimum requirements of BB Contractor. In addition, all workers are required to wear a shirt, close-toed shoes, and full-length trousers while in the Work Area or at other locations on the Site.
- b. Tenant Contractor shall provide for the safety and protection of Tenant Contractor's Work, including the covering of any holes, shaft openings, maintenance of safety handrails, barricades, signs, etc. so as to avoid all safety hazards. All safety and protection measures must be OSHA compliant. When safety rails must be removed to facilitate Tenant Contractor's Work, they shall be replaced as soon as work necessitating removal is complete and at the close of work each day.
- c. Open fires and burning of rubbish are strictly prohibited.
- d. Tenant Contractor shall provide all fire extinguishers required for Tenant Contractor's Work as required by the Applicable Laws.
- e. No welding or cutting torch is to be used at the Site without the prior written approval of Landlord. If such approval is granted by Landlord, Tenant Contractor must have fire extinguishers present where such welding is taking place and maintain a fire watch at all times when the equipment is being used. Additionally, Tenant Contractor may be required to perform any such welding after-hours because of fumes, which may be associated with such welding/cutting torch usage.
- f. No varnishes/lacquers are to be sprayed at the Site without the prior written approval of Landlord. Because of the combustible nature, this type of work should normally be done offsite. Additionally, Tenant Contractor may be required to perform any such work after-hours because of fumes. Anyone found spraying these compounds in or around the Site without the written approval of Landlord will be required to immediately cease such work and remove all such materials from the Site.
- g. All flammable materials or debris or other dangerous materials must be removed from the Work Area and Site daily. No flammable materials or debris shall remain at the Site overnight.
- h. Any and all of Tenant's employees, other contractors and their respective subcontractors and suppliers and other workers performing work at the Site at any time – regular hours, evenings, and weekends – must be supervised by a Tenant Contractor supervisor and Tenant Contractor supervisor shall notify Landlord and BB Contractor in advance as to when such persons or companies

plan to perform work at the Site so that Landlord or BB Contractor can determine if it needs to have a representative present.

- i. Tenant Contractor shall immediately correct any condition that Landlord or BB Contractor advises in writing as creating a potential safety hazard. Should Tenant Contractor not correct such condition immediately, Landlord may make such corrective work at Tenant Contractor's sole cost and expense.

6. Site Security

- a. All security for Tenant Contractor's Work, including security of its own materials and equipment, shall be provided by and be the sole responsibility of Tenant Contractor.
- b. All Tenant Contractor personnel and deliveries must sign-in at such location(s) as designated by BB Contractor and/or Landlord prior to admittance to the Site at all times. A log of onsite personnel shall be maintained by Tenant Contractor and shall always be available. All Tenant Contractor personnel shall have a valid identification. Tenant Contractors and subcontractors must at all times while on site have project specific identification as provided by the Landlord (e.g. custom sticker on Contractor's hardhat, identification badge).
- c. Notwithstanding anything to the contrary in the Lease, any acts of vandalism associated with Tenant Contractor's Work shall be Tenant Contractor's sole responsibility (including insurance deductibles), and any act of vandalism by Tenant Contractor's employees, agents, subcontractors or suppliers at the Site shall be Tenant Contractor's sole responsibility (including insurance deductibles).
- d. All work to be performed after-hours must be coordinated with Landlord and BB Contractor no later than 48 hours in advance and shall adhere to the District of Columbia Noise Ordinance and jurisdictional limitations.
- e. Tenant Contractor shall notify BB Contractor and Landlord of all major security breaches within 6 hours of incident.
- f. Prior to start of construction, Tenant Contractor shall provide to Landlord and BB Contractor a security work plan including access, laydown and security for review and written approval.

7. Work Area and Field Office

- a. Prior to commencement of any of Tenant Contractor's Work, Tenant Contractor shall erect construction barriers acceptable to BB Contractor and Landlord between the Work Area and any public areas or other areas at the Site, and will keep the Work Area closed from public view until substantial completion of Tenant Contractor's Work and occupancy by Tenant. Tenant Contractor shall perform all construction activities inside the Work Area unless otherwise agreed in writing by Landlord. All stored materials, including but not limited to tools, equipment, and/or temporary facilities necessary for Tenant Contractor's Work, are to be within the Work Area unless otherwise agreed to in writing by Landlord.

- b. Landlord makes no guarantee that Tenant Contractor will be able to use the base building sanitation facilities for Tenant Contractor's workers. Tenant Contractor is responsible for providing the temporary sanitation facilities for its workers within the Work Area or as mutually agreed in writing with Landlord. Tenant Contractor shall coordinate with Landlord and BB Contractor on acceptable location and maintenance program for facilities which shall be subject to Landlord's written approval.
- c. Tenant Contractor shall provide Landlord and BB Contractor with keys to all locks installed on or in the Work Area and shall provide access to the Work Area at all times.
- d. Tenant Contractor, its employees, agents and visitors, when at the Site, shall restrict themselves to the Work Area.
- e. Subject to Landlord's written approval, Tenant Contractor may provide and maintain a temporary field office or trailer with telephone for its exclusive use which must be contained within the Work Area, and shall be removed promptly at the completion of the Work.
- f. Vehicle parking for Tenant Contractor employees and all subcontractor and supplier personnel is not available. Offsite parking should be assumed for all construction personnel.
- g. Landlord prohibits food preparation on the Site. Contractors may not prepare food within the Premises.
- h. Tenant Contractor shall provide pest control within the Work Area from commencement of Tenant Contractor's Work until final completion. Tenant Contractor shall notify Landlord in writing of any pest problems it discovers. Should Tenant Contractor not take action to cure pest problem in the Work Area, or in other areas when the problem is caused by Tenant Contractor or those within its control, within two (2) business days after either notice from Landlord or becoming aware of the problem, Landlord will take such corrective work as it deems necessary at Tenant's sole cost and expense.
- i. Tenant Contractor shall provide all subcontractors and others within Tenant Contractor's control with Work Area designation and restrictions and shall strictly enforce these provisions.

8. Project Signs and Directory

- a. Tenant Contractor, or its subcontractors, shall not be permitted any identifying graphics or signage on the Site without the prior written approval of Landlord. Signs relating to address for deliveries of materials will be allowed subject to Landlord's written approval. No commercial or advertising signs of Tenant, Tenant Contractor, its subcontractors, or design team shall be allowed without prior written approval of Landlord.
- b. Subject to Landlord's written approval, no cameras shall be permitted on Site, except as approved in writing by Landlord.

- c. Prior to commencement of Work, Tenant Contractor shall furnish BB Contractor and Landlord with a list of subcontractors, sub-subcontractors and suppliers and any other persons or entities that may have access to the Work Area. The list shall include emergency contact information. Landlord and BB Contractor shall also supply Tenant Contractor with emergency contact list.

9. Site Inspection and Acceptance

- a. Tenant Contractor will not be allowed to occupy or use the Work Area until Landlord gives written permission. Said written permission will not be unreasonably withheld provided that Tenant has complied with all of its obligations relating to construction of Tenant Contractor's Work set forth herein and in the Lease and Landlord receives all required insurance, permits and other required documents.
- b. Prior to commencement of any of Tenant Contractor's Work, Landlord, Tenant's representative and Tenant Contractor shall conduct a joint inspection of the Work Area, participate in a pre-construction meeting with Landlord and BB Contractor, and issue a list of any existing damage to or defects in the Work Area.
- c. Tenant Contractor shall carefully examine the base building plans and specifications, including all mechanical, electrical, plumbing, structural, architectural, civil and other special drawings, general conditions or specifications; and shall visit the Site and Work Area to fully inform itself as to all existing conditions and limitations. Landlord makes no representations with regard to the accuracy of documents and drawings, nor does Landlord assume responsibility for potential conflicts that may surface related to existing conditions.
- d. Tenant Contractor shall be responsible to field verify existing conditions. Tenant Contractor shall be solely responsible for the layout and engineering of all current Tenant Contractor's Work. Tenant and Tenant Contractor shall be responsible for any adverse effects that the work of Tenant Contractor, or its subcontractors, has on the Premises, Site, or other BB Contractor scope and systems.

10. Protection of Existing Work

- a. It is Tenant Contractor's responsibility to protect and maintain all existing and future construction by others on Site affected by Tenant Contractor's Work ("Existing and Future Construction"). Damage to Existing and Future Construction, including streetscape and landscaping removed and/or damaged by Tenant Contractor, must be reported to Landlord as soon as possible and shall be promptly replaced and/or repaired by Tenant Contractor at Tenant's cost and expense notwithstanding anything to the contrary in the Lease.
- b. Tenant Contractor shall not cut or alter any portion of any Existing and Future Construction at the Site without the prior written approval of Landlord and BB Contractor. Requests by Tenant Contractor to modify any portion of any Existing and Future Construction at the Site should comply with the following:
  - i. Any request by Tenant Contractor for such approval shall be in the form of a submission of "Shop Drawings" and shall include explicit details



including the scope of work, the proposed schedule and the method of restoration of the cut or altered Existing and Future Construction so that after such cutting or alteration the Existing and Future Construction shall be in conformance with Applicable Laws and the contract documents relating to such Existing and Future Construction.

- ii. The submission shall show the nature and extent of the cutting or alteration to be performed and the method of restoration of the cut or altered work so that the finished Tenant Contractor's Work will comply in all respects with the plans and specifications therefor, the Lease, and any contract documents relating to such Existing and Future Construction.
- iii. Such submission shall be accompanied by sufficient information to enable Landlord and BB Contractor to determine if the proposed cutting or alteration (a) is necessary, (b) will not adversely affect the structural integrity or moisture resistance or watertight integrity of any element of the Project, (c) will not require modification of the contract documents for the Existing and Future Construction or change in other items of the Project, (d) will not result in a cost disadvantage to Landlord or others, (e) will be protected by guarantees and warranties at least as stringent as those required in the contract documents for the Existing and Future Construction affected and (f) will be in conformity with the intent of the contract documents for the Existing and Future Construction.
- iv. Any structural modification (which must be identified in writing specifically by Tenant Contractor on the contract documents for the Existing and Future Construction) shall be submitted and approved in writing in advance by Landlord and BB Contractor.
- v. For penetrating the building envelope, cutting, core drilling and other structural modifications, appropriate techniques such as x-ray investigation and GPR must be approved by Landlord and BB Contractor and utilized before any slab penetration work is begun.

These approved structural modifications must be coordinated and scheduled with Landlord and BB Contractor prior to commencement of this work. Costs associated with submittals, reviews, approvals and coordination will be the sole responsibility of Tenant. No approval by Tenant or BB Contractor hereunder shall in any way operate to relieve Tenant or Tenant's Contractor from its obligations hereunder or under the Lease.

- c. Tenant Contractor is responsible for protection of Tenant Contractor's Work and all Existing and Future Construction in connection with any modifications to the mechanical and plumbing system and shall contain and remove any drain down, leakage and water used for testing.
- d. Temporary nails and power-driven studs shall not be used on any concrete floor surface not subsequently concealed by partitions and walls. Concrete screws, sleeve anchors or bolts shall otherwise be used and properly removed.

- e. Tenant Contractor will provide walk-off mats at each entrance to the Work Area to prevent tracking of dirt to adjacent areas.
- f. Landlord prohibits smoking on the Site at any time.
- g. Tenant Contractor will be required to conform to BB Contractor rules or rules imposed by Landlord, as they pertain to working within or moving through the Site to and from the Work Area.
- h. Work Area shall be kept clean and orderly. All food trash shall be removed from the Work Area on a daily basis. General trash shall be removed with enough frequency to maintain a clean and orderly Work Area. Building trash containers are not to be used for construction debris. Landlord reserves the right to bill Tenant for any cost incurred to clean up debris left by the general contractor or any subcontractor. Further, the building staff is instructed to hold the driver's license of any employee of the contractor while using the freight elevator to ensure that all debris is removed from the elevator. Landlord's prior written approval must be obtained for all dumpsters.
- i. Public area corridor, carpet and elevator cabs and flooring are to be protected by plastic runners or a series of walk-off mats from the elevator to the suite under reconstruction. All elevator cabs must be fully protected for construction use or deliveries if made available by Landlord to Tenant during construction of Tenant Improvements. Tenant's contractor shall provide and install temporary protection at all elevator openings to avoid construction dust from entering the elevator shafts. The elevator shafts will be inspected prior to commencement of any work. Tenant's contractor will be responsible for the inspection and cleaning of elevator shafts at its cost. Corridor walls to be protected with durable materials during all construction material deliveries related to construction of Tenant Improvements. Public spaces — corridors, elevators, bathrooms, lobby, exterior area, etc. — must be cleaned immediately after use. Construction debris or materials found in public areas will be removed at Tenant's cost.

11. Conflicts Among Documents

- a. In the event conflicts occur between provisions stated herein and other provisions of the Work, unless a provision of this **Schedule B-4** expressly provides otherwise, the following documents will govern the order listed below:
  - i. Lease
  - ii. This Schedule B-4
  - iii. As-built conditions
  - iv. Other documents.

12. Work Approval

- a. All concentrated loading of materials must have prior written approval of Landlord. Tenant Contractor shall provide written submission plan and details

related to all loads imposed or modification required. Information provided to Landlord must be certified by Tenant's structural engineer prior to submission.

- b. All mechanical modifications, or supplemental units, involved in Tenant Contractor's Work must have prior written approval of Landlord, and must be coordinated in advance of the start of Tenant Contractor's Work with BB Contractor and Landlord. Tenant shall formally transmit full submittals outlining the size, location, load, etc. for written approval by Landlord. All information shall be approved by Tenant's consulting engineer prior to submission.
- c. All costs associated with such modifications, including but not limited to submittal, review, approval and coordination requirements, shall be the responsibility of Tenant.
- d. Work Area shall be separately metered for temporary utilities. All metering and costs for temporary utilities shall be at Tenant's expense. Tenant shall be responsible for the allocated share of all utility costs used within the Work Area that are not able to be submetered or separately metered for temporary utilities.

13. Construction Schedule

- a. Tenant Contractor shall submit to Landlord a detailed construction schedule forty-five (45) days prior to the commencement of Tenant Contractor's Work. This schedule shall be in a CPM format, shall show all activities of durations of one week or more, and shall indicate the start of construction and the substantial completion date for Tenant Contractor's Work.
- b. Any critical path work requiring coordination with Landlord or BB Contractor shall be highlighted in the schedule.
- c. To the extent that Landlord's or BB Contractor's activities conflict with, or are made inefficient by, the activities of Tenant Contractor, Tenant Contractor shall modify its schedule so that such conflicts or inefficiencies are removed. It is acknowledged that the activities of Landlord and BB Contractor shall have precedence over those of Tenant Contractor until substantial completion of Landlord's or BB Contractor's work, and that Tenant Contractor's schedule may require modification as construction of Landlord or BB Contractor's work proceeds. To the extent that Landlord or BB Contractor is delayed by the activities of Tenant Contractor prior to substantial completion of Landlord's or BB Contractor's work, Tenant shall be liable for all costs and delays on account thereof.

14. Working Hours

- a. Tenant Contractor's Work shall be performed subject to the requirements of the Lease and Applicable Laws, including without limitation, those Applicable Laws related to noise control. Landlord shall determine and notify Tenant's Contractor as to the "normal working hours" for the site.
- b. After hours work for certain construction activities, deliveries of materials or equipment requiring extended use of the facilities of the Existing and Future Construction, and services and equipment elevators in the Existing and Future

Construction, must be scheduled with BB Contractor and Landlord at least three (3) business days in advance. "After hours" is defined as time outside of Landlord's and BB Contractor's normal working hours. Any costs incurred by Landlord in allowing Tenant Contractor access to the Existing and Future Construction or the Work Area after normal working hours shall be borne by Tenant. Permitting and approval of any special "after hours" construction permits is the responsibility of the Tenant.

- c. Any access into areas of the Existing and Future Construction must be coordinated with BB Contractor and Landlord at least 48 hours in advance.
- d. Tenant will be responsible for any overtime compensation payable to Landlord's building engineers or other agents and employees of Landlord or BB Contractor in connection to overtime work that requires additional personnel onsite, or the operation of HVAC or elevator.
- e. Permits and approvals necessary to lawfully complete "after hours" Tenant Contractor Work will be the responsibility of the Tenant and Tenant Contractor.

15. Temporary Utilities

- a. Tenant Contractor shall provide temporary power for electricity for lighting and small power tools. All costs of coordination, installation and usage payments for temporary power are the responsibility of Tenant.
- b. Tenant will be charged directly for the use of permanent utilities when these services are complete and available.
- c. Tenant Contractor must make arrangements for temporary heating, cooling and telephone service and Tenant shall pay all costs associated therewith.
- d. Tenant shall have meters installed on all water locations to measure water use.
- e. Tenant shall be responsible for the allocated share of all utility costs used within the Work Area that are not able to be submetered or separately metered for temporary utilities

16. Materials Hoisting

- a. All materials hoisting must be scheduled and coordinated with BB Contractor and Landlord a minimum of two (2) business days in advance of time needed for all deliveries. After hours hoisting of materials is recommended, and may be required. BB Contractor and Landlord reserve the right to charge Tenant for actual costs incurred for after-hours use and for after-hours reserved time that is not used (i.e. extra security).
- b. Tenant Contractor must conform to the following requirements for any materials to be hoisted through windows:
  - i. Two (2) business days' advance written approval must be obtained from Landlord;

- ii. All windows must be removed and replaced by BB Contractor;
    - iii. All Tenant Contractor's Work must be performed in strict accordance with the requirements of BB Contractor, and
    - iv. All costs associated with the hoisting through windows are the responsibility of Tenant.
  - c. Personnel employed by Tenant Contractor or any of its subcontractors may be required to use stairwells.
  - d. All costs associated with delivery of material, equipment and personnel to the Work Area shall be the responsibility of Tenant.
17. Deliveries and Storage
- a. Deliveries of any of Tenant Contractor's equipment and/or materials, as required for the completion of Tenant Contractor's Work, shall be carefully scheduled with BB Contractor and Landlord a minimum of seven (7) business days in advance of such deliveries.
  - b. Tenant Contractor shall not store any material or trash on the Site or erect any sheds, offices, etc., except within the Work Area unless otherwise approved in writing by Landlord.
  - c. Tenant Contractor shall in no way interfere with or endanger the public or pedestrian, cyclist and vehicular traffic on or adjacent to the Site. Tenant Contractor shall provide traffic personnel and coordination at street level for any deliveries or traffic related to Tenant Contractor's Work and shall procure and pay for all special street use permits as required for the performance of the Work. Certain trailers will require special use permits.
  - d. Tenant Contractor is responsible for security and protection of all materials delivered to Site and Work Area including protection from weather and wind conditions.
  - e. All packing peanuts and other materials associated with Tenant Contractor's operation must be secured from scattering.
  - f. Tenant Contractor's deliveries at the Site will be under the general direction and coordination of BB Contractor and Landlord. It is Tenant Contractor's responsibility to coordinate with BB Contractor and Landlord.
  - g. All deliveries to the Site must identify Tenant Contractor's company name and the floor where the materials and/or equipment will be installed. Tenant Contractor and Tenant will be responsible for rejection of unidentifiable or improperly scheduled or improperly identified deliveries.
  - h. Tenant will be responsible for any costs for any violation of the foregoing provisions, including re-delivery fees, fees, tickets, towing charges, etc.

- i. Under no circumstances shall Tenant Contractor, its employees and all construction personnel use any areas within any garage level for storage or parking. Tenant Contractor parking is not provided on site.
  - j. Tenant Contractors or personnel will use loading dock area for all deliveries and will not use loading dock for vehicle parking.
18. Disposition of Materials and Clean-Up
- a. Tenant Contractor shall clean the Work Area daily of all debris, rubbish and graffiti resulting from Tenant Contractor's Work and shall immediately clean up any debris caused by Tenant Contractor's activities. Subject to Landlord's written approval, and at Tenant's cost, after-hours use of building elevators and/or hoist may be authorized for the disposition of materials and clean up due to elevator and/or hoist and loading dock area demand.
  - b. Prior to start of any Tenant Contractor's Work, Tenant Contractor shall confirm and provide trash areas, dumpster locations, if a dumpster is allowed, and trash removal schedules. If dumpsters are not permitted by Landlord, at its sole discretion, then Tenant Contractor shall be required to dispose of materials by other means. Contractors will be responsible for daily removal of waste foods, milk and soft drink containers, etc. to trash room and will not use any building trash receptacles but trash receptacles supplied by them.
  - c. All cartons, boxes, etc. shall be cut and laid flat in the least dimension. Pallets and crates shall be broken down to the least dimension for removal.
  - d. Brooms, vacuum cleaners and any other required cleaning equipment are Tenant Contractor's responsibility.
  - e. Disposal of materials in toilet area plumbing will not be allowed.
19. Coordination with Existing and Future Construction
- a. Tenant Contractor shall secure from Landlord, at Tenant's cost, any or all plans and specifications relating to the Existing and Future Construction and required for Tenant Contractor's Work. Tenant Contractor acknowledges that "as-built" drawings of Existing and Future Construction may not be available until after substantial completion of work being performed by Landlord or BB Contractor. Landlord is not responsible for conflicts between any drawings or other documents furnished to Tenant Contractor or Tenant from Landlord or BB Contractor and existing conditions at the Site or in the Work Area that may arise.
  - b. All connections to the Existing and Future Construction mechanical system or loop (if applicable) must be performed by BB Contractor at Tenant's cost.
  - c. Tenant Contractor is required to use BB Contractor's fire protection subcontractors and fire alarm subcontractor for Tenant Contractor's Work, system connection and any shutdown and restart. Tenant Contractor shall contract with such subcontractors directly and Tenant shall be responsible for costs on account thereof.

- d. If a Temporary or Permanent Certificate of Occupancy has been issued for work performed by Landlord or BB Contractor and/or any portion of the Site is occupied and/or the governmental authority having jurisdiction requires fire protection systems to be fully operational at all times, then any Tenant Contractor shutdown of these systems shall be prohibited, and, to the fullest extent permitted by law, Tenant shall indemnify and hold harmless, and shall defend, Landlord, BB Contractor, any owner of any portion of the Site and their respective members, officers, directors, partners, managers, employees, agents, lenders, successors and assigns (collectively "Landlord Parties") from and against any and all liability arising, directly or indirectly, from such shutdown. Notwithstanding the foregoing, Tenant Contractor may request shutdown from Landlord, and Landlord may authorize in writing such shutdown to the extent permitted by the applicable governmental authority and to the extent such shutdown will not adversely affect other operations at the Site.
- e. Tenant is responsible for all costs of shutdown, including additional security personnel and fire watch requirements.
- f. Water and air balancing (if applicable) for final Tenant occupancy shall be contracted through BB Contractor's air balance contractor at Tenant's expense. Any work to modify or add to the fire alarm/life safety systems must be coordinated through BB Contractor and/or Landlord. All costs are the responsibility of Tenant.
- g. Shop drawings of all connections to the Existing and Future Construction systems must be furnished to Landlord 60 days prior to the applicable Tenant Contractor's Work.
- h. Tenant Contractor is responsible for maintaining the structural integrity of the Existing and Future Construction during material stockpiling, installation and operation.
- i. Any shutdowns to the Existing and Future Construction electrical, HVAC, access control, water or sanitary systems shall require the prior written approval of Landlord, which approval shall not be required to be given with less than five (5) business days' notice, and which approval shall not be required to be given if such shutdown will adversely impact the progress of the Existing and Future Construction. Tenant is responsible for all costs associated with any shutdowns including stand-by crews or overtime as may be required. Tenant Contractor is responsible for all costs for retesting and/or re-inspection of services (mechanical, control or electrical) where modified or interrupted by Tenant Contractor's Work.
- j. Tenant Contractor shall take all steps necessary to prevent accidental activation of smoke detectors and the life safety system of the Existing and Future Construction during performance of Tenant Contractor's Work and Tenant is responsible for costs associated with accidental activation of the existing fire alarm or sprinkler system. All fire alarm pre-testing must be coordinated with Landlord and BB contractor to avoid disruption to BB Contractor, Existing business, and Residences. A minimum of 48 hours' notice is required.
- k. Prior to connection to the Existing and Future Construction condenser water system (if applicable), Tenant Contractor must perform a hydrostatic pressure test

and a thorough cleaning (24 hour) and flushing of Tenant's water lines and mechanical unit. The written results of such testing and cleaning shall be furnished to and are subject to written approval by BB Contractor and Landlord at least two (2) business days prior to connection to the Existing and Future Construction condenser water system.

1. Tenant Contractor will be responsible for all costs associated with installing Tenant Contractor's Work in the ceiling of occupied space below the Work Area including removing and reinstalling ceilings, temporary protection and clean up. All Tenant Contractor's Work in occupied space must be done after hours (or as otherwise agreed with Landlord and BB Contractor) and scheduled one week in advance with BB Contractor and Landlord. Tenant will be responsible for any additional security personnel.

20. Code Compliance

- a. Governmental authorities having jurisdiction over the Existing and Future Construction and/or Tenant Contractor's Work or Landlord may require independent inspections of structural modifications to Existing and Future Construction structural systems. Tenant Contractor shall be responsible for coordinating the independent inspections, and Tenant shall be responsible for all costs in connection with such inspections, including, but not limited to, costs incurred by Landlord and BB Contractor. Tenant shall provide the inspection reports, which shall show no deficiencies, to Landlord for review and written approval, prior to occupancy. If any deficiencies are shown in such reports, Tenant Contractor shall correct such deficiencies prior to occupancy and arrange for re-testing, all at the cost of Tenant.
- b. Tenant Contractor must properly fire-stop any wall or floor penetration performed as part of Tenant Contractor's Work, so as to maintain the fire rating required by the plans and specifications for the Existing and Future Construction, including penetration of the floor sleeve sealant system within the telephone closets necessitated by the installation of temporary or permanent telephone service.
- c. Tenant Contractor will also be required to comply with any neighborhood, Planned Unit Development final order, transportation and loading management plan, traffic control plan or jurisdictional agreements under which Landlord may be obligated.

21. Project Close-Out

- a. Tenant Contractor is responsible for all cleaning within the Work Area and all cleaning of other areas of the Site to the extent Tenant Contractor has been in such areas.
- b. Tenant Contractor is responsible for ensuring that all light fixtures in the Work Area are working properly and are fully lit at substantial completion of Tenant Contractor's Work.
- c. Tenant Contractor is responsible for obtaining the temporary (if applicable) and final Certificate of Occupancy as required for Tenant's occupancy.



- d. Tenant is responsible for all coordination and cost of keys. Landlord shall be provided with keys until Final Completion of BB Contractor's work.
- e. Prior to occupancy, Tenant shall provide Landlord all inspection reports and approvals for structural/base building modifications and obtain Landlord's written acknowledgement of receipt and approval of such reports and approvals.
- f. Upon substantial completion of Tenant Contractor's Work, and as a condition to Tenant occupancy, the following items must be submitted to and approved by Landlord by Tenant or Tenant Contractor as part of close out process (if applicable):
  - i. Submittal of certified Air Balance Report from BB Contractors subcontractor;
  - ii. "As-built" architectural and MEP drawings, and where applicable, kitchen design as built;
  - iii. Final lien waivers from Tenant Contractor and those within its control who have lien rights under law in the form attached as **Schedule B-8**;
  - iv. All keys to building standard locksets and custom locksets;
  - v. Temporary or Final Use and Occupancy Certificate(s) and permits (including, without limitation, health inspections and approvals, as applicable);
  - vi. Non-hazardous Certification from all Tenant Contractor's subcontractors;
  - vii. Consent of Surety of Tenant Contractor, if any, to final payments (if applicable);
  - viii. Directory of all subcontractors, suppliers and manufacturers;
  - ix. All Warranty and Guarantee Documents and all Operation and Maintenance Manuals;
  - x. Substantial Completion Certificate;
  - xi. Certification of Fire-Retardant Plywood and Backing; and
  - xii. LEED Certification material, if required.

22. Job Meetings and Representation

- a. Landlord will assign a representative for Tenant Contractor's Work. All references to coordination with Landlord herein shall mean coordination with the designated representative. Landlord will notify Tenant of BB Contractor's representative. All references to coordination with BB Contractor herein shall mean coordination with the designated representative. Designated representatives may be changed in writing by Landlord to Tenant.

- b. Upon commencement of Tenant Contractor's Work, Tenant Contractor shall furnish to Landlord a list of employees, all subcontractors' key personnel and Tenant Contractor's project manager and superintendent including home telephone and portable telephone numbers.

- c. Landlord's initial representative is:

**WFS2, L.L.C.**/o P.N. Hoffman and Associates, Inc.  
760 Maine Avenue SW  
Washington, DC 20024

23. Lien Releases

- a. During the entire course of Tenant Contractor's Work, Tenant Contractor is required to execute A Partial Release of Liens and Claims, or a Final Release of Liens and Claims, as applicable, in the exact form as approved in writing in advance by Landlord in Schedule B-8. Tenant Contractor's first-tier subcontractors and suppliers are required to execute partial and final Releases of Liens and Claims in the exact form as approved in writing in advance by Landlord.
- b. To the fullest extent permitted by law, Tenant hereby indemnifies and holds harmless and agrees to defend the Landlord Parties from and against any and all liens on the Site or other property of Landlord or others arising out of, directly or indirectly, Tenant Contractor's Work.

24. Posting Rules and Regulations

- a. A copy of this Schedule B-4, acknowledged and accepted in writing by Tenant Contractor, must be furnished to Landlord prior to commencement of Tenant Contractor's Work and posted in the Work Area in a location clearly visible to all workers. It is Tenant Contractor's responsibility to instruct its employees and all subcontractors to familiarize themselves and enforce compliance with the provisions of this Schedule B-4.

25. Non-Compliance

- a. Failure to comply with the provisions of this Schedule B-4 shall entitle Landlord to bar Tenant Contractor and those within its control from current or future activities at the Site. Any cost incurred by Landlord in cleaning the Site or Work Area or repairing damage resulting from Tenant Contractor's activities (including the activities of any of Tenant Contractor's employees, agent or visitors) will be billed to Tenant.

26. Indemnification

- a. To the fullest extent permitted by law, Tenant and Tenant Contractor shall indemnify and hold Landlord Parties harmless, and shall defend Landlord Parties, with respect to any and all losses, damages, expenses, costs (including court costs and reasonable attorney's fees), claims, demands, injuries, deaths, or suits by any person or persons, arising out of or resulting from Tenant Contractor's Work, any breach by Tenant Contractor of the provisions of this Schedule B-4, or any error,

omission, or negligent or wrongful act, by Tenant Contractor or by any of its agents, consultants, servants, or employees or others within its control.

27. Miscellaneous

- a. To the extent any approval or consent is required to be given by Landlord or BB Contractor hereunder, such approval or consent shall in no way relieve Tenant or Tenant Contractor from sole responsibility and liability for their respective obligations hereunder.
- b. All provisions regarding indemnification and obligations which by their nature survive completion of Tenant Contractor's Work shall survive termination or other expiration of the Lease, including this Schedule B-4.
- c. Any insurance required to be provided by Tenant or Tenant Contractor under the Lease or this Schedule B-4 shall in no way operate as a limitation on the obligations of Tenant or Tenant Contractor hereunder.
- d. Landlord and BB Contractor and any other person or entity required to be an additional insured or loss payee, as applicable, under the provisions of the Lease shall be deemed to be third-party beneficiaries of the agreement between Tenant and Tenant Contractor as such agreement relates to indemnification, insurance, safety, and protection of persons and property.

Acknowledged and Accepted:

\_\_\_\_\_  
Tenant

\_\_\_\_\_  
Tenant Authorized Representative

\_\_\_\_\_  
Date

## SCHEDULE B-5

### INSURANCE REQUIREMENTS FOR CONTRACTORS

The following are the minimum insurance coverages required to be held by the Tenant's Contractor and each subcontractor, until final acceptance of Tenant Improvements in accordance with the terms of **Exhibit B**:

1. Worker's Compensation and Employer's Liability Insurance:

Worker's Compensation - Statutory amounts and coverage as required by laws of the place where the Building is located.

Employer's Liability - \$500,000.00 per occurrence or statutory amounts whichever is higher.

2. Commercial General Liability Insurance.

Public Liability: Including Premises/Operations, Elevator, Products, Completed Operations, Contractual Coverage, Independent Contractor's Liability, Broad Form Property Damage and Personal Injury with policy naming Tenant as additionally insured. One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate.

Bodily and Personal Injury Liability and Property Damage Liability: Including XCU (Explosion, Collapse and Underground Damage). Three Million Dollars (\$3,000,000.00) each occurrence and Five Million Dollars (\$5,000,000.00) aggregate.

3. Comprehensive Automobile Liability Insurance: Including owned, non-owned, and hired vehicles. One Million Dollars (\$1,000,000.00) combined single limit.

4. Umbrella Liability including coverages for Tenant as provided in underlying policies — Five Million Dollars (\$5,000,000.00).

## SCHEDULE B-6

### EARLY ACCESS FOR TENANT IMPROVEMENT WORK

**Access for Tenant Improvement Work** - the condition wherein the Landlord Work portion of the Premises may not be substantially completed, but such Landlord Work is constructed to the point that Landlord has otherwise reasonably determined that construction of the Improvements may commence and be pursued to completion without interruption or impediment (other than minor interruptions or impediments that are typically encountered in connection with the construction of tenant improvement work in comparable circumstances), to the Landlord Work and other work Landlord may be performing in the Building and within the Premises. Without limitation of the foregoing, the Premises shall be deemed in Early Access Work condition when the following conditions have been satisfied:

1. **Concrete Superstructure** - The concrete superstructure in the Premises shall be Substantially Complete and the floors of the Premises shall be broom cleaned.
2. **Exterior Skin** - Exterior aluminum panels and glass curtain and window wall system installation will be Substantially Complete on the floors of the Premises and will be weather-tight (or temporary measures shall be taken to ensure that the perimeter Building envelope is substantially weather-tight), with the exception of manlift locations (if utilized by Landlord's Contractor) and the trash chute location.
3. **Roof** - The roof shall be substantially water-tight (or temporary measures shall be taken to ensure the roof is substantially water-tight).
4. **Stairs** - The Building stairwells shall be available for access to and from the Premises. Tenant acknowledges that from time to time, one (1) of the two (2) core stairwells may require closing in order to complete finishing of the Base Building work by Landlord's Contractor.
5. **Core Partitions** - Core partitions (tenant sides) shall be framed, dry-walled, taped, spackled, and ready for paint within the Premises.
6. **Electricity** - Access may be given to Tenant without power to Premises. During this time Tenant's contractor will be responsible for temporary power to the Premises.
7. **MEP** - All core areas such as Mechanical Rooms, Electrical Rooms and Telephone Closets within the Premises are accessible for performance of Tenant Work, should Tenant Work be required in those areas. Landlord's Contractor and subcontractors may be required to perform work simultaneously with Tenant's Contractor and subcontractors to facilitate base building inspections, commissioning, punch list, etc. and mutual cooperation for access to these areas and systems is required. Tenant shall not tie into Landlord's base building systems until base building inspection sign offs have been completed by the Authority Having Jurisdiction unless prior written approval is provided by Landlord's contractor.
8. **Fire/Life Safety** - Tenant shall coordinate fire life safety tie-in work with Landlord's contractor and Landlord's base Building subcontractors. Landlord's Contractor and Landlord's base Building subcontractors may be required to perform work

simultaneously with Tenant's Contractor and subcontractors to facilitate base building inspections, commissioning, punch list, etc. and mutual cooperation for access to these areas and systems is required. Tenant shall not tie into Landlord's base building systems until base building inspection sign offs have been completed by the Authority Having Jurisdiction unless prior written approval is provided by Landlord's contractor.

9. **Fire Protection / Sprinkler System** – Landlord shall have installed fire protection system, including core and shell standpipes and fire department valves, in a "loft" condition within the Premises in accordance with all applicable codes and NFPA for a core and shell condition building. Landlord's Contractor and Landlord's base Building subcontractors may be required to perform work simultaneously with Tenant's Contractor and subcontractors to facilitate base building inspections, commissioning, punch list, etc. and mutual cooperation for access to these areas and systems is required. Tenant shall not tie into Landlord's base building systems until base building inspection sign offs have been completed by the Authority Having Jurisdiction unless prior written approval is provided by Landlord's contractor. Tenant is responsible for coordinating sprinkler heads and piping with their final layout.

**SCHEDULE B-7**  
**INTENTIONALLY OMITTED**

SCHEDULE B-8

FINAL RELEASE AND WAIVER OF LIENS

We, the undersigned, are general contractor or subcontractors, materialmen, or other persons furnishing services or labor or materials, as indicated under our respective signatures below, in the construction or repair of improvements upon real estate owned by Landlord and described as follows:

In exchange for payment in the amount of \_\_\_\_\_, the sufficiency of which is hereby acknowledged, we do hereby, for ourselves, our employees, our subcontractors and materialmen, and all other persons acting for, through or under us, waive, relinquish and release, all right to file or to have filed or to maintain any mechanics' lien or liens or claims against the said building or buildings and appurtenant facilities and structures and real property appurtenant thereto. This Release and Waiver is executed and given in favor of and for the benefit of each and every party legally or equitably, now or hereafter, owning an interest in the subject property and to any party who has made or who in the future makes a loan on said real property and improvements and his, hers, its or their successors and assigns (collectively, the "Owner") and we do further warrant that we have the full right to execute this Release and Waiver and to bind the parties on whose behalf we have affixed our signatures below. This Release and Waiver of Liens shall be an independent covenant and shall operate and be effective as well with respect to work and labor done and materials furnished under any supplemental contract or contracts, whether oral or written, for extra or additional work, and for any other and further work done or materials furnished at any time with respect to the subject property subsequent to the execution of this Release and Waiver.

All of the undersigned respectively warrant that all subcontractors and laborers employed by them upon the aforesaid premises have been fully paid and that none of such subcontractors or laborers have any claim, demand, or lien against said premises; and further, that no chattel mortgage, conditional bill of sale or retention of title agreement has been given or executed by any contractor or other party or any of us, for or in connection with any material, appliances, machinery, fixtures, or furnishings placed upon or installed in the aforesaid premises by any of us, other than:

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It is understood and agreed that any and all signatures below are for all services rendered, work done and material furnished previously and in the future by the undersigned in any and all capacities, and are not understood to be only for the particular item against which the signature is affixed. This waiver and release is specifically made for the benefit of the Landlord, and may be relied upon unconditionally by the Landlord.



[Signature page follows]



SCHEDULE B-9

AFFIDAVIT

\_\_\_\_\_, being duly sworn according to law, deposes and states that he is the \_\_\_\_\_ of \_\_\_\_\_, that s/he is executing this agreement on behalf of \_\_\_\_\_, and that the following facts are true and correct to the best of his/her knowledge, information and belief:

1. Attached hereto as Schedule A is a true and correct list of all contractors, subcontractors, materialmen and other parties who have furnished labor, services, goods or materials in the construction, installation, modification and repair of improvements commonly known as the \_\_\_\_\_, located at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_;and

2. That all of the parties listed on Schedule A have been paid in full for all labor, services, goods or materials utilized in the construction, installation, modification and repair of improvements commonly known as \_\_\_\_\_, except for the monies owed to those parties, if any, listed in Schedule B attached hereto.

Further Affiant Sayeth Not.

"Firm"

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\*\*\*\*\*

STATE OF \_\_\_\_\_)

) ss:

COUNTY OF \_\_\_\_\_)

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that due execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

[Notarial Seal]

My Commission Expires: \_\_\_\_\_

## EXHIBIT C

### RULES AND REGULATIONS

#### Retail Tenants

A. Tenant shall be obligated to do the following:

- (i) Keep the Premises, including all exterior surfaces and both sides of all glass clean, orderly and sanitary;
- (ii) Keep the outside areas adjacent to the Premises clean and orderly and free of rubbish, obstructions and merchandise. Mobile signage (e.g. sandwich boards) and retail merchandise displays must be approved by Landlord, not obstruct passage adjacent to the Premises, and if approved, be placed only during business hours;
- (iii) Display the certificate of occupancy for the Premises in the Premises (if required by applicable law) and provide Landlord with a copy of the certificate of occupancy for the Premises;
- (iv) Keep the Premises free of garbage and trash and remove the same from the Premises to containers approved by Landlord and in a location identified by Landlord. Trash collection and storage shall be completed during such hours as defined by the Landlord and which may be amended from time to time. Within the Premises, trash and rubbish must be stored in a location that is not visible from the exterior of the Premises or elsewhere within the Project;
- (v) Maintain the Premises free of insects, rodents, vermin and other pests;
- (vi) Keep all mechanical apparatus, equipment, and associated structures, and other Tenant equipment, fixtures, and furnishings free of vibration and noise;
- (vii) Procure and maintain at its sole cost and expense any permits and licenses, including but not limited to liquor licenses, signage permits, and storefront permits, required in the transaction of Tenant's business;
- (viii) Conduct its business in all respects in a dignified manner in accordance with the high standards of first-class business operations;
- (ix) Load and unload goods during such hours as defined by the Landlord and which may be amended from time to time in the areas and through such entrances as designated by Landlord;
- (x) Maintain the temperature in the Premises at all times to prevent freezing of plumbing lines and fixtures;
- (xi) If the Premises connects to a climate controlled interior space, operate heating and cooling equipment to maintain store temperature at all times between 68°F and 74°F in the winter and between 72°F and 78°F in the summer, or in accordance with the then prevailing government regulations respecting minimum and maximum winter and summer store temperatures, whichever is more stringent;

(xii) Keep its show windows and displays dressed, using only professionally prepared signage which must be submitted to Landlord for approval prior to installation in accordance with Section 7.3 of the Lease;

(xiii) Keep its display windows and/or exterior signs illuminated from a minimum of dusk to 10:00 p.m. Sunday thru Thursday and from dusk to 12 midnight Friday and Saturday

(xiv) Keep the Premises open during the Minimum Business Hours prescribed in Section 7.5 of the Lease;

(xv) Abide by all Rules and Regulations set forth in this Exhibit C as may be changed by Landlord from time to time;

(xvi) Within the Premises, live music or any other use of amplifiers or speakers is prohibited afterschool operating hours. Live music or any other use of amplifiers or speakers is prohibited at all times outside of the Premises without special review and approval of the Landlord in writing; and

(xvii) Maintain the Premises in such a manner that restricts all foul or objectionable odors, including but not limited to odors from trash, cooking, grease, or cleaning, from emanating outside of the Premises. Provide trash and food waste receptacles that contain all odor and liquid run off.

B. Tenant agrees not to do the following:

(i) Display any sign visible outside the Premises without first having obtained Landlord's written permission and necessary permits and approvals from regulatory agencies;

(ii) Use the Premises or any other part of the Project for any Prohibited Use;

(iii) Cause the accumulation of garbage, trash, rubbish or refuse in the Premises or the Project;

(iv) Display or store merchandise outside the Premises without the written permission of Landlord;

(v) Distribute hand bills or other advertising matter or solicit business in the Common Area;

(vi) Attach any awning, antenna, or other projection to the roof or the outside walls of the Premises or the Project of which the Premises are a part without the written permission of Landlord;

(vii) Use or permit the use of objectionable advertising mediums such as loud speakers, video displays or other mediums that irritate or have the tendency to irritate other tenants within the Project or their customers or invitees;

(viii) Discharge or permit to be discharged any acids, vapors or other harmful materials into the waste 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, photographic processing chemicals (including without limitation silver alloys) or other foreign substances shall be thrown or deposited therein. Each tenant (i) agrees to comply with the laws and regulations applicable to the operation of its business and to the handling and disposal of all hazardous materials (as that term is defined by

the Environmental Protection Agency and other similar governmental agencies) used in such business and (ii) hereby indemnifies and holds Landlord harmless from any damages, costs or liabilities incurred by Landlord in connection with the foregoing. Nothing shall be swept or thrown into the Common Areas or other areas of the Building, into or upon any heating or ventilating vents or registers or plumbing apparatus in the Building, or upon adjoining buildings, land or streets. The cost of repairing any damage resulting from any misuse of such fixtures, vents, registers or apparatus, the cost of repairing and damage to the Building, to any facilities of the Building or to any adjoining building or property caused by any tenant, or the employees, agents, licensees or invitees of such tenant, or any penalties or fines incurred by Landlord in connection with such misuse shall be paid by such tenant;

(ix) Introduce any telephone, internet, telegraph or other wires or instruments into the Building by any Tenant except in a manner approved by Landlord;

(x) Introduce any intake or exhaust shafts, vents, louvers, or ducts that are not expressly approved by Landlord in writing in the Final Utility Location Plan;

(xi) Place in front or affix any showcases or other articles to any part of the exterior of the Building, nor placed in the Common Areas, if any;

(xii) Mark, paint, drill into or in any way deface any part of the Premises or the Building other than as expressly approved by Landlord in writing, additionally, no boring, cutting or stringing of wires shall be permitted, except with the prior written consent of, and as directed by, Landlord;

(xiii) Bring any gasoline-powered motorized vehicles into, or kept in or about the Premises; and

(xiv) Place any additional locks or bolts of any kind other than those approved by Landlord for the Tenant Improvements upon any of the doors or windows by any tenant, nor shall any changes be made in locks or the mechanism thereof. Duplicate keys for the Premises and toilet rooms shall be made available to Landlord, at Tenant's expense. 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, either furnished to, or otherwise procured, by such tenant.

**EXHIBIT D**

**TENANT ACCEPTANCE AND ESTOPPEL CERTIFICATE**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

**Re:   Retail Lease Agreement (the "Lease") with WFS2, LLC (the "Landlord")  
for Premises (described in the Lease and herein referred to as the  
"Premises") in the building located at \_\_\_\_\_,  
Washington, D.C. (the "Building"), said Lease being dated \_\_\_\_\_, 20\_\_**

Ladies and Gentlemen:

We hereby certify to you that:

1.       The Lease is in full force and effect and the undersigned has accepted the Premises without exception. All requirements for the commencement and validity of the Lease have been satisfied and the undersigned is presently paying the rentals due under the Lease. The Lease has not been modified, supplemented or amended in any way except as may be indicated in the caption above. The Landlord is not in default under the Lease and all obligations of the Landlord for construction work have been fully performed. The undersigned has no claim or set-off under the Lease against rents or charges due or to become due thereunder. The Lease is a bona fide lease.

2.       The Commencement Date of the Term of our Lease is \_\_\_\_\_, 20\_\_ the expiration date of the initial Term of our Lease is \_\_\_\_\_, 20\_\_. None of the rent which the undersigned is required to pay under the Lease has been prepaid more than thirty (30) days in advance, except as specified in the Lease.

3.       This Tenant Acceptance and Estoppel Certificate shall run to the addressees and their respective successors and assigns in interest.

4.       Tenant accepts the condition of the Premises and hereby acknowledges that Landlord Improvements are complete.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Very truly yours,

\_\_\_\_\_, a \_\_\_\_\_

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





**EXHIBIT E**

INTENTIONALLY OMITTED

**EXHIBIT F**  
**PROHIBITED USES**

(a) Tenant shall not use any area of the Project outside the Premises (a) for the sale of any merchandise, including food and beverage items, (b) to solicit business, (c) to display signs, or (d) for public meetings or entertainment.

(b) Tenant shall not use or permit the use of any portion of the Premises as living quarters, sleeping apartments or lodging rooms.

(c) Tenant shall not use the Premises for any shooting gallery, flea market, circus, bowling alley, video game or vending machine parlor, pool or billiard establishment or similar business or activity.

(d) Tenant shall not use any portion of the Premises for storage or other services except as customary for Tenant's operations in the Premises in accordance with the Permitted Use of the Premises.

(e) Tenant shall display, sell and advertise only first-quality seasonal merchandise and not any seconds or damaged goods, and shall never conduct any so-called outlet, warehouse or like discount operations in or from the Premises.

(f) Tenant shall maintain negative air pressure in the Premises so as to prevent odors or smells from emanating from the Premises into the Common Areas of the Project or adjacent office, residential or exterior areas of the Project.

In addition, Tenant shall not use the Premises for any of the following uses:

(i) any thrift shops, goodwill type stores and similar businesses, Army, Navy, or government "surplus" store or swap shop selling merchandise that is used, damaged or discontinued;

(ii) any mobile home or trailer court, labor camp, junk yard or stock yard;

(iii) any dumping, disposal, incineration of garbage or refuse;

(iv) any fire or bankruptcy sale or auction house operation;

(v) any automobile repair facilities or facility for the sale, repair or leasing of component parts of cars, trailers, trucks or recreational vehicles;

(vi) any amusement arcade, game room, or amusement center, except as are incidental or ancillary to another permitted use or in accordance with the Association Documents;

(vii) any veterinary hospital;

(viii) any mortuary or funeral parlor;

(ix) any facility primarily engaged in the sale, rental or exhibition of pornographic, sexually explicit or obscene material or any establishment featuring strip tease, nude, "topless," or similar adult entertainment;

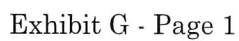
(x) any car, trailer, truck or recreational vehicle rental or sales facility;

- (xi) any hospital, clinic (other than a clinic located in a pharmacy) or other health care facility for the onsite treatment of patients;
- (xii) any car wash (other than a car wash located in the Garage);
- (xiii) any gambling facility or operation, including, but not limited to off-track or sports betting parlor, table games, such as black-jack or poker, slot machines, video poker/black-jack machines or similar devices or bingo hall;
- (xiv) any sewage treatment plants;
- (xv) any electrical substations;
- (xvi) any refining of petroleum or of its products or any gas stations;
- (xvii) any smelting of iron, tin, zinc or other substances;
- (xviii) any drilling for and/or removal of oil, gas, or other hydrocarbon or other substances;
- (xix) any industrial use;
- (xx) any commercial excavation of building or construction materials (but not excavation in connection with the construction of Improvements);
- (xxi) any storage or parking of campers, boats, trailers or motor homes except within the Garage or in accordance with the Association Documents;
- (xxii) any raising, breeding or keeping of any animals, livestock or poultry for commercial purposes (other than in a pet store or the use of seeing eye dogs);
- (xxiii) any massage parlors (with the exception of day spas, hair salons or health clubs that may also provide massage services);
- (xxiv) any laundromats;
- (xxv) any tattoo parlors;
- (xxvi) any facilities for the sale of paraphernalia for use with illicit drugs;
- (xxvii) establishments for the primary purpose of check-cashing (other than banks, credit unions or other financial institutions);
- (xxviii) any gun ranges, shooting galleries or the sale of any firearms, explosives or weapons, or any use which produces or is accompanied by fire, explosive or other damaging or dangerous hazards;
- (xxix) any pawn shops;
- (xxx) any so-called head shops;
- (xxxi) any catering halls, banquet halls or meeting halls as a primary use;
- (xxxii) any drive-through facilities;
- (xxxiii) any use whose primary focus is wholesale distribution;

(xxxiv) any use that constitutes a public or private nuisance, or emits or generates an obnoxious odor, noise, litter, dust or dirt, or flashing or "strobe" lights inconsistent with a first-class mixed-use development for office, retail and residential use in Washington, D.C.; or

(xxxv) any tenant who enjoys sovereign or diplomatic immunity.

**TRASH ROUTE, DELIVERY ROUTE AND LOADING LOCATION**



**EXHIBIT I**

INTENTIONALLY OMITTED

## **EXHIBIT J**

### **LANDLORD SIGN CRITERIA MANUAL**

The criteria provided within this exhibit shall govern the design, color, size, illumination, location, and manner of installation of all of Tenant's signs to be placed on or near the Premises and/or the Project. All signage installed by Tenant shall comply with all Laws, Codes, and the Design Guidelines. Tenant's signage must be reviewed and approved by Landlord and must comply with any applicable Laws, codes, and requirements, including Comprehensive Sign Plans approved for the Project by the District of Columbia Department of Consumer and Regulatory Affairs, District of Columbia Office of Planning, US Commission of Fine Arts and subject to all other applicable governmental approvals.

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 retail building, and upon written notice from Landlord, such tenant shall refrain from and discontinue such advertising or identifying sign.



## **EXHIBIT K**

### **RETAIL TENANT SUSTAINABILITY REQUIREMENTS AND GUIDELINES**

Sustainability is an important principle for the development—the building is pursuing a LEED Gold Certification. As such, the landlord strongly encourages the tenant to follow the LEED 2009 Commercial Interiors program for the design and construction of the tenant fit-out (see [usgbc.org/LEED](http://usgbc.org/LEED) for specific information). Following these requirements and guidelines will aid in the development of an overall efficient design that is compatible with the base building's LEED Certification.

The following items are required of all building tenants:

1. Envelope, lighting, and HVAC systems must be designed to meet or exceed the mandatory provisions of ASHRAE 90.1-2010
2. Any HVAC, refrigeration, or fire suppression system installed in the building as part of the tenant scope of work, regardless as to who is responsible for installing it, must not use any chlorofluorocarbon (CFC)-based refrigerants.
3. Mechanical and natural ventilation systems that are installed by tenants must be designed to meet or exceed minimum performance requirements of ASHRAE 62.1-2010.
4. Smoking is to be prohibited in all indoor areas, and outdoors beyond 25' from all entrances, intakes, and fresh air intakes. This policy must be communicated to building occupants.
5. Install CO2 monitors must be between 3 and 6 feet above the floor in all densely occupied spaces (25 people or more per 1,000 square feet). CO2 monitors must have an audible or visual indicator or alert the building automation system if the sensed CO2 concentration exceeds the setpoint by more than 10%.
6. Installed plumbing fixtures must meet the following maximum flush and flow rates:
  - a. Urinals: 1.0 GPF (Water Sense labeled)
  - b. Water Closets:  $\leq 1.6$  GPF (Water Sense labeled)
  - c. Public Lavatory Faucet: 0.5 GPM (Water Sense labeled)
  - d. Showerhead: 1.75 GPM (Water Sense labeled)
  - e. Low-Flow Pantry Sink Faucet: 2.2 GPM
  - f. Pre-rinse Spray Heads:  $\leq 1.3$  GPM

EXHIBIT L  
PRIMARY TRADE AREA

